

**Calendar No. 247**

104TH CONGRESS  
1ST Session

**S. 1396**

**A BILL**

To amend title 49, United States Code, to provide  
for the regulation of surface transportation.

NOVEMBER 18 (legislative day, NOVEMBER 16), 1995

Reported with an amendment

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1995

Mr. PRESSLER (for himself, Mr. EXON, Mr. BURNS, Mr. HOLLINGS, Mr. INOUE, Mr. HUTCHISON, and Mrs. KASSEBAUM) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 18 (legislative day, NOVEMBER 16), 1995

Reported by Mr. PRESSLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To amend title 49, United States Code, to provide for the regulation of surface transportation.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interstate Commerce  
5 Commission Sunset Act of 1995”.

**1 SEC. 2. AMENDMENT OF TITLE 49.**

2 Except as otherwise expressly provided, whenever in  
 3 this Act an amendment or repeal is expressed in terms  
 4 of an amendment to, or repeal of, a section or other provi-  
 5 sion, the reference shall be considered to be made to a  
 6 section or other provision of title 49, United States Code.

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1 **TITLE I—TERMINATION OF THE**  
 2 **INTERSTATE COMMERCE**  
 3 **COMMISSION; REPEAL OF OB-**  
 4 **SOLETE AND UNNECESSARY**  
 5 **PROVISIONS OF LAW**

6 **Subtitle A—Termination of ICC**

7 **SEC. 101. AGENCY TERMINATION.**

8 When functions transferred under this Act have been  
 9 transferred to the Intermodal Surface Transportation  
 10 Board and to the Secretary of Transportation, the Inter-  
 11 state Commerce Commission shall terminate.

12 **SEC. 102. SAVINGS PROVISIONS.**

13 (a) IN GENERAL.—All orders, determinations, rules,  
 14 regulations, licenses, and privileges which are in effect at  
 15 the time this Act takes effect, shall continue in effect ac-  
 16 cording to their terms, insofar as they involve regulatory  
 17 functions to be retained by this Act, until modified, termi-  
 18 nated, superseded, set aside, or revoked in accordance with  
 19 law by the Transportation Board (to the extent they in-  
 20 volve the functions transferred to the Intermodal Surface  
 21 Transportation Board under this Act) or by the Secretary  
 22 (to the extent they involve functions transferred to the  
 23 Secretary under this Act), or by a court of competent ju-  
 24 risdiction, or by operation of law.

25 (b) PROCEEDINGS; APPLICATIONS.—

1           (1) The provisions of this Act shall not affect  
2           any proceedings or any application for any license  
3           pending before the Interstate Commerce Commission  
4           at the time this Act takes effect, insofar as those  
5           functions are retained and transferred by this Act;  
6           but such proceedings and applications, to the extent  
7           that they relate to functions so transferred, shall be  
8           continued. Orders shall be issued in such proceed-  
9           ings, appeals shall be taken therefrom, and pay-  
10          ments shall be made pursuant to such orders, as if  
11          this Act had not been enacted; and orders issued in  
12          any such proceedings shall continue in effect until  
13          modified, terminated, superseded, or revoked by a  
14          duly authorized official, by a court of competent ju-  
15          risdiction, or by operation of law. Nothing in this  
16          subsection shall be deemed to prohibit the dis-  
17          continuance or modification of any such proceeding  
18          under the same terms and conditions and to the  
19          same extent that such proceeding could have been  
20          discontinued or modified if this Act had not been en-  
21          acted.

22          (2) The Transportation Board and the Sec-  
23          retary are authorized to provide for the orderly  
24          transfer of pending proceedings from the Interstate  
25          Commerce Commission.

1       ~~(c) ACTIONS IN LAW COMMENCED BEFORE ENACT-~~  
 2 ~~MENT.—Except as provided in subsection (c)—~~

3           ~~(1) the provisions of this Act shall not affect~~  
 4       ~~suits commenced prior to the date this Act takes ef-~~  
 5       ~~fect, and,~~

6           ~~(2) in all such suits, proceedings shall be had,~~  
 7       ~~appeals taken, and judgments rendered in the same~~  
 8       ~~manner and effect as if this Act had not been en-~~  
 9       ~~acted.~~

10       ~~(d) CONTINUANCE OF ACTIONS AGAINST OFFI-~~  
 11 ~~CERS.—No suit, action, or other proceeding commenced~~  
 12 ~~by or against any officer in his official capacity as an offi-~~  
 13 ~~cer of the Interstate Commerce Commission shall abate~~  
 14 ~~by reason of the enactment of this Act. No cause of action~~  
 15 ~~by or against the Interstate Commerce Commission, or by~~  
 16 ~~or against any officer thereof in his official capacity, shall~~  
 17 ~~abate by reason of enactment of this Act.~~

18       ~~(e) SUBSTITUTION OF TRANSPORTATION BOARD AS~~  
 19 ~~PARTY.—Any suit by or against the Interstate Commerce~~  
 20 ~~Commission begun before enactment of this Act shall be~~  
 21 ~~continued, insofar as it involves a function retained and~~  
 22 ~~transferred under this Act, with the Transportation Board~~  
 23 ~~(to the extent the suit involves functions transferred to~~  
 24 ~~the Transportation Board under this Act) or the Secretary~~  
 25 ~~(to the extent the suit involves functions transferred to~~

1 the Secretary under this Act) substituted for the Commis-  
 2 sion.

3 **SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.**

4 (a) **FUNCTIONS.**—With respect to any functions  
 5 transferred by this Act and exercised after the effective  
 6 date of the Interstate Commerce Commission Sunset Act  
 7 of 1995, reference in any other Federal law to the Inter-  
 8 state Commerce Commission shall be deemed to refer to—

9 (1) the Intermodal Surface Transportation  
 10 Board, insofar as it involves functions transferred to  
 11 the Transportation Board by this Act; and

12 (2) the Secretary of Transportation, insofar as  
 13 it involves functions transferred to the Secretary by  
 14 this Act.

15 (b) **OTHER REFERENCES.**—Any other reference in  
 16 any law, regulation, official publication, or other document  
 17 to the Interstate Commerce Commission as an agency of  
 18 the United States Government shall be treated as a ref-  
 19 erence to the Transportation Board.

20 **Subtitle B—Repeal of Obsolete,**  
 21 **Etc., Provisions**

22 **SEC. 121. REPEAL OF PROVISIONS.**

23 The following provisions are repealed:

1           (1) Section 10101 (relating to transportation  
2       policy) and the item relating thereto in the table of  
3       sections of chapter 101 are repealed.

4           (2) Section 10322 (relating to Commission ac-  
5       tion and appellate procedure in nonrail proceedings)  
6       and the item relating thereto in the table of sections  
7       of chapter 103 are repealed.

8           (3) Section 10326 (relating to limitations in  
9       rulemaking proceedings related to rail carriers) and  
10      the item relating thereto in the table of sections of  
11      chapter 103 are repealed.

12          (4) Section 10327 (relating to Commission ac-  
13      tion and appellate procedure in rail carrier proceed-  
14      ings) and the item relating thereto in the table of  
15      sections of chapter 103 are repealed.

16          (5) Section 10328 (relating to intervention) and  
17      the item relating thereto in the table of sections of  
18      chapter 103 are repealed.

19          (6) Subchapter III of chapter 103 (relating to  
20      joint boards) and the items relating thereto in the  
21      table of sections of such chapter are repealed.

22          (7)(A) Subchapter IV of chapter 103 (relating  
23      to Rail Services Planning Office) and the items re-  
24      lating thereto in the table of sections of such chapter  
25      are repealed.

1           ~~(B) Section 24505(b) of title 49, United States~~  
 2           ~~Code, is amended to read as follows:~~

3           ~~“(b) OFFER REQUIREMENTS.—A commuter author-~~  
 4           ~~ity making an offer under subsection (a)(2) of this section~~  
 5           ~~shall show that it has obtained access to all rail property~~  
 6           ~~necessary to provide the additional commuter rail pas-~~  
 7           ~~senger transportation.”.~~

8           ~~(8) Subchapter V of chapter 103 (relating to~~  
 9           ~~Office of Rail Public Counsel) and the items relating~~  
 10           ~~thereto in the table of sections of such chapter are~~  
 11           ~~repealed.~~

12           ~~(9) Section 10502 (relating to express carrier~~  
 13           ~~transportation) and the item relating thereto in the~~  
 14           ~~table of sections of chapter 105 are repealed.~~

15           ~~(10) Section 10504 (relating to exempt rail~~  
 16           ~~mass transportation) and the item relating thereto~~  
 17           ~~in the table of sections of such chapter are repealed.~~

18           ~~(11) Subchapter II, III, and IV of chapter 105~~  
 19           ~~(relating to freight forwarder service) and the items~~  
 20           ~~relating thereto in the table of sections of such chap-~~  
 21           ~~ter are repealed.~~

22           ~~(12) Section 10705a (relating to joint rate sur-~~  
 23           ~~charges and cancellations) and the item relating~~  
 24           ~~thereto in the table of sections of chapter 107 are~~  
 25           ~~repealed.~~

1           (13) Section 10710 (relating to elimination of  
2       discrimination against recyclable materials) and the  
3       item relating thereto in the table of sections of chap-  
4       ter 107 are repealed.

5           (14) Section 10711 (relating to effect of certain  
6       sections on rail rates and practices) and the item re-  
7       lating thereto in the table of sections of chapter 107  
8       are repealed.

9           (15) Section 10712 (relating to inflation-based  
10      rate increases) and the item relating thereto in the  
11      table of sections of chapter 107 are repealed.

12          (16) Subchapter H (relating to special cir-  
13      cumstances) of chapter 107 (except for sections  
14      10721 and 10730) and the items relating thereto in  
15      the table of sections of chapter 107 (except for the  
16      subchapter caption and the items relating to sections  
17      10721 and 10730) are repealed.

18          (17) Section 10743 (relating to payment of  
19      rates) and the item relating thereto in the table of  
20      sections of chapter 107 are repealed.

21          (18) Section 10746 (relating to transportation  
22      of commodities manufactured or produced by a rail  
23      carrier) and the item relating thereto in the table of  
24      sections of chapter 107 are repealed.

1           (19) Section 10748 (relating to transportation  
2           of livestock by rail carrier) and the item relating  
3           thereto in the table of sections of chapter 107 are  
4           repealed.

5           (20) Section 10749 (relating to exchange of  
6           services and limitation on use of common carriers by  
7           household goods freight forwarders) and the item re-  
8           lating thereto in the table of sections of chapter 107  
9           are repealed.

10          (21) Section 10751 (relating to business enter-  
11          tainment expenses) and the item relating thereto in  
12          the table of sections of chapter 107 are repealed.

13          (22) Section 10764 (relating to arrangements  
14          between carriers) and the item relating thereto in  
15          the table of sections of chapter 107 are repealed.

16          (23) Section 10765 (relating to water transpor-  
17          tation under arrangements with certain other ear-  
18          riers) and the item relating thereto in the table of  
19          sections of chapter 107 are repealed.

20          (24) Section 10766 (relating to freight for-  
21          warder traffic agreements) and the item relating  
22          thereto in the table of sections of chapter 107 are  
23          repealed.



1           (25) Section 10767 (relating to billing and col-  
2           lecting practices) and the item relating thereto in  
3           the table of sections of chapter 107 are repealed.

4           (26) Subchapter V of chapter 107 (relating to  
5           valuation of property) and the items relating thereto  
6           in the table of sections of chapter 107 are repealed.

7           (27)(A) Section 10908 (relating to discontinu-  
8           ing or changing interstate train or ferry transpor-  
9           tation) and the item relating thereto in the table of  
10          sections of chapter 109 are repealed.

11          (B) Subsection (d) of section 24705 of title 49,  
12          United States Code, is repealed.

13          (28) Section 10909 (relating to discontinuing or  
14          changing train or ferry transportation in one State)  
15          and the item relating thereto in the table of sections  
16          of chapter 109 are repealed.

17          (29) Subchapter II (relating to other carriers  
18          and motor carrier brokers) of chapter 109 and the  
19          items relating thereto in the table of sections of  
20          chapter 109.

21          (30) Section 11105 (relating to protective serv-  
22          ices) and the item relating thereto in the table of  
23          sections of chapter 111 are repealed.

1           (31) Section 11106 (relating to identification of  
2       motor vehicles) and the item relating thereto in the  
3       table of sections of chapter 111 are repealed.

4           (32) Section 11107 (relating to leased motor  
5       vehicles) and the item relating thereto in the table  
6       of sections of chapter 111 are repealed.

7           (33) Section 11108 (relating to water carriers  
8       subject to unreasonable discrimination in foreign  
9       transportation) and the item relating thereto in the  
10      table of sections of chapter 111 are repealed.

11          (34) Section 11109 (relating to loading and un-  
12      loading motor vehicles) and the item relating thereto  
13      in the table of sections of chapter 111 are repealed.

14          (35) Section 11110 (relating to household goods  
15      carrier operations) and the item relating thereto in  
16      the table of sections of chapter 111 are repealed.

17          (36) Section 11111 (relating to use of citizen  
18      band radios on buses) and the item relating thereto  
19      in the table of sections of chapter 111 are repealed.

20          (37) Section 11126 (distribution of coal cars)  
21      and the item relating thereto in the table of sections  
22      of chapter 111 are repealed.

23          (38) Section 11127 (relating to service of  
24      household freight forwarders) and the item relating

1 thereto in the table of sections of chapter 111 are  
2 repealed.

3 (39) Section 11142 (relating to uniform ac-  
4 counting system for motor carriers) and the item re-  
5 lating thereto in the table of sections of chapter 111  
6 are repealed.

7 (40) Section 11161 (relating to railroad ac-  
8 counting principles board) and the item relating  
9 thereto in the table of sections of chapter 111 are  
10 repealed.

11 (41) Section 11162 (relating to cost accounting  
12 principles) and the item relating thereto in the table  
13 of sections of chapter 111 are repealed.

14 (42) Section 11163 (relating to implementation  
15 of cost accounting principles) and the item relating  
16 thereto in the table of sections of chapter 111 are  
17 repealed.

18 (43) Section 11164 (relating to certification of  
19 rail carrier cost accounting systems) and the item  
20 relating thereto in the table of sections of chapter  
21 111 are repealed.

22 (44) Section 11167 (relating to report) and the  
23 item relating thereto in the table of sections of chap-  
24 ter 111 are repealed.

1           (45) Section 11168 (relating to authorization of  
2           appropriations) and the item relating thereto in the  
3           table of sections of chapter 111 are repealed.

4           (46) Section 510 of the Railroad Revitalization  
5           and Regulatory Reform Act of 1976 (45 U.S.C.  
6           830) is amended by striking “the provisions of sec-  
7           tion 20a of the Interstate Commerce Act (49 U.S.C.  
8           20a), nor”.

9           (47) Section 11304 (relating to security interest  
10          in certain motor vehicles) and the item relating  
11          thereto in the table of sections of chapter 113 are  
12          repealed.

13          (48) Section 11321 (relating to limitation on  
14          ownership of certain water carriers) and the item re-  
15          lating thereto in the table of sections for chapter  
16          113 are repealed.

17          (49) Section 11322 (relating to restrictions on  
18          officers and directors) and the item relating thereto  
19          in the table of sections for chapter 113 are repealed.

20          (50) Section 11345a (relating to motor carrier  
21          procedures for consolidation, merger, and acquisition  
22          of control) and the item relating thereto in the table  
23          of sections of chapter 113 are repealed.

24          (51) Section 11346 (relating to expedited rail  
25          carrier procedures for consolidation, merger, and ac-

quisition of control) and the item relating thereto in the table of sections of chapter 113 are repealed.

(52) Section 11349 (relating to temporary operating approval for transactions involving motor and water carriers) and the item relating thereto in the table of sections of chapter 113 are repealed.

(53) Section 11350 (relating to responsibility of the Secretary of Transportation in certain transactions) and the item relating thereto in the table of sections of chapter 113 are repealed.

(54) Subchapter IV of chapter 113 (relating to financial structure) and the items relating thereto in the table of sections of chapter 113 are repealed.

(55) Section 11502 (relating to conferences and joint hearings with State authorities) and the item relating thereto in the table of sections of chapter 115 are repealed.

(56) Section 11503a (tax discrimination against motor carrier transportation property) and the item relating thereto in the table of sections of chapter 115 are repealed.

(57) Section 11505 (relating to State action to enjoin rail carriers from certain actions) and the item relating thereto in the table of sections of chapter 115 are repealed.

1           (58) Section 11506 (relating to registration of  
2           motor carriers by a State) and the item relating  
3           thereto in the table of sections of chapter 115 are  
4           repealed.

5           (59) Section 11507 (relating to prison-made  
6           property governed by State law) and the item relat-  
7           ing thereto in the table of sections of chapter 115  
8           are repealed.

9           (60) Section 11704 (relating to action by a pri-  
10          vate person to enjoin abandonment of service) and  
11          the item relating thereto in the table of sections of  
12          chapter 117 are repealed.

13          (61) Section 11708 (relating to private enforce-  
14          ment) and the item relating thereto in the table of  
15          sections of chapter 117 are repealed.

16          (62) Section 11709 (relating to liability for is-  
17          suanee of securities by certain carriers) and the item  
18          relating thereto in the table of sections of chapter  
19          117 are repealed.

20          (63) Section 11711 (relating to dispute settle-  
21          ment program for household goods carriers) and the  
22          item relating thereto in the table of sections of chap-  
23          ter 117 are repealed.

24          (64) Section 11712 (relating to tariff reconcili-  
25          ation rules for motor common carriers of property)

1 and the item relating thereto in the table of sections  
2 of chapter 117 are repealed.

3 (65) Section 11902a (relating to penalties for  
4 violations of rules relating to loading and unloading  
5 motor vehicles) and the item relating thereto in the  
6 table of sections of chapter 119 are repealed.

7 (66) Section 11905 (relating to transportation  
8 of passengers without charge) and the item relating  
9 thereto in the table of sections of chapter 119 are  
10 repealed.

11 (67) Section 11906 (relating to evasion of regu-  
12 lation of motor carriers and brokers) and the item  
13 relating thereto in the table of sections of chapter  
14 119 are repealed.

15 (68) Section 11908 (relating to abandonment of  
16 service by household goods freight forwarders) and  
17 the item relating thereto in the table of sections of  
18 chapter 119 are repealed.

19 (69) Section 11911 (relating to issuance of se-  
20 curities, etc.) and the item relating thereto in the  
21 table of sections of chapter 119 are repealed.

22 (70) Section 11913a (relating to accounting  
23 principles violations) and the item relating thereto in  
24 the table of sections of chapter 119 are repealed.

1           ~~(71) Section 11917 (relating to weight-bumping~~  
 2           ~~in household goods transportation) and the item re-~~  
 3           ~~lating thereto in the table of sections of chapter 119~~  
 4           ~~are repealed.~~

5   **SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER,**  
 6           **UNRELATED ACT NOT AFFECTED.**

7           Notwithstanding any provision of this Act, an entity  
 8   that is, or is treated as, an employer under the Railroad  
 9   Retirement Act, the Railroad Unemployment Insurance  
 10   Act, or the Railroad Retirement Tax Act under subtitle  
 11   IV of title 49, United States Code, as in effect on the day  
 12   before the date of enactment of this Act, shall continue  
 13   to be covered as employers under those Acts.

14   **TITLE    II—INTERMODAL    SUR-**  
 15       **FACE                   TRANSPORTATION**  
 16       **BOARD**

17           **Subtitle A—Organization**

18   **SEC. 201. AMENDMENT TO SUBCHAPTER I.**

19           ~~(a) AMENDMENT.—Subchapter I of chapter 103 is~~  
 20   ~~amended to read as follows:~~

21           ~~“SUBCHAPTER I—ESTABLISHMENT~~

22   ~~“§ 10301. Establishment of Transportation Board~~

23           ~~“(a) ESTABLISHMENT.—There is hereby established~~  
 24   ~~within the Department of Transportation the Intermodal~~  
 25   ~~Surface Transportation Board.~~



1       “(b) MEMBERSHIP.—(1) The Transportation Board  
2 shall consist of 3 members, to be appointed by the Presi-  
3 dent, by and with the advice and consent of the Senate.  
4 Not more than 2 members may be appointed from the  
5 same political party.

6       “(2) At any given time, at least 2 members of the  
7 Transportation Board shall be individuals with profes-  
8 sional standing and demonstrated knowledge in the fields  
9 of rail or motor transportation or transportation regula-  
10 tion, and at least 1 member shall be an individual with  
11 professional or business experience in the private sector.

12       “(3) The term of each member of the Transportation  
13 Board shall be 5 years and shall begin when the term of  
14 the predecessor of that member ends. An individual ap-  
15 pointed to fill a vacancy occurring before the expiration  
16 of the term for which the predecessor of that individual  
17 was appointed, shall be appointed for the remainder of  
18 that term. When the term of office of a member ends, the  
19 member may continue to serve until a successor is ap-  
20 pointed and qualified, but for a period not to exceed 1  
21 year. The President may remove a member for neglect of  
22 duty or malfeasance in office.

23       “(4) On the effective date of this section, the mem-  
24 bers of the Interstate Commerce Commission then serving  
25 terms shall become members of the Transportation Board,

1 to serve for a period of time equal to the remainder of  
 2 the term for which they were originally appointed to the  
 3 Interstate Commerce Commission.

4 “(5) No individual may serve as a member of the  
 5 Transportation Board for more than 2 terms. In the case  
 6 of an individual appointed to fill a vacancy occurring be-  
 7 fore the expiration of the term for which the predecessor  
 8 of that individual was appointed, such individual may not  
 9 be appointed for more than 1 additional term.

10 “(6) A member of the Transportation Board may not  
 11 have a pecuniary interest in, hold an official relation to,  
 12 or own stock in or bonds of, a carrier providing transpor-  
 13 tation by any mode and may not engage in another busi-  
 14 ness, vocation, or employment.

15 “(7) A vacancy in the membership of the Transpor-  
 16 tation Board does not impair the right of the remaining  
 17 members to exercise all of the powers of the Transpor-  
 18 tation Board. The Transportation Board may designate  
 19 a member to act as Chairman during any period in which  
 20 there is no Chairman designated by the President.

21 “(c) CHAIRMAN.—(1) There shall be at the head of  
 22 the Transportation Board a Chairman, who shall be des-  
 23 ignated by the President from among the members of the  
 24 Transportation Board. The Transportation Board shall be  
 25 administered under the supervision and direction of the

1 Chairman. The Chairman shall receive compensation at  
2 the rate prescribed for level III of the Executive Schedule  
3 under section 5314 of title 5.

4 “(2) Subject to the general policies, decisions, find-  
5 ings, and determinations of the Transportation Board the  
6 Chairman shall be responsible for administering the  
7 Transportation Board. The Chairman may delegate the  
8 powers granted under this paragraph to an officer, em-  
9 ployee, or office of the Transportation Board. The Chair-  
10 man shall—

11 “(A) appoint and supervise, other than regular  
12 and full time employees in the immediate offices of  
13 another member, the officers and employees of the  
14 Transportation Board, including attorneys to pro-  
15 vide legal aid and service to the Transportation  
16 Board and its members, and to represent the Trans-  
17 portation Board in any case in court;

18 “(B) appoint the heads of major office with the  
19 approval of the Transportation Board;

20 “(C) distribute Transportation Board business  
21 among officers and employees and offices of the  
22 Transportation Board;

23 “(D) prepare requests for appropriations for  
24 the Transportation Board and submit those requests

1 to the President and Congress with the prior ap-  
 2 proval of the Transportation Board; and

3 ~~“(E) supervise the expenditure of funds allo-~~  
 4 ~~ated by the Transportation Board for major pro-~~  
 5 ~~grams and purposes.~~

6 **“§ 10302. Functions**

7 ~~“Except as otherwise provided in the Interstate Com-~~  
 8 ~~merce Commission Sunset Act of 1995, or the amend-~~  
 9 ~~ments made thereby, the Transportation Board shall per-~~  
 10 ~~form all functions that, immediately before the effective~~  
 11 ~~date of such Act, were functions of the Interstate Com-~~  
 12 ~~merce Commission or were performed by any officer or~~  
 13 ~~employee of the Interstate Commerce Commission in the~~  
 14 ~~capacity as such officer or employee.~~

15 **“§ 10303. Administrative provisions**

16 ~~“(a) EXECUTIVE REORGANIZATION.—For purposes~~  
 17 ~~of chapter 9 of title 5, United States Code, the Transpor-~~  
 18 ~~tation Board shall be deemed to be an independent regu-~~  
 19 ~~latory agency and an establishment of the United State~~  
 20 ~~Government.~~

21 ~~“(b) OPEN MEETINGS.—For purposes of section~~  
 22 ~~552b of title 5, United States Code, the Transportation~~  
 23 ~~Board shall be deemed to be an agency.~~

24 ~~“(c) INDEPENDENCE.—In the performance of their~~  
 25 ~~functions, the members, employees, and other personnel~~

1 of the Transportation Board shall not be responsible to  
 2 or subject to the supervision or direction of any officer,  
 3 employee, or agent of any other part of the Department  
 4 of Transportation.

5 “(d) REPRESENTATION BY ATTORNEYS.—Attorneys  
 6 designated by the Chairman of the Transportation Board  
 7 may appear for, and represent the Transportation Board  
 8 in, any civil action brought in connection with any function  
 9 carried out by the Transportation Board pursuant to this  
 10 subtitle or as otherwise authorized by law.

11 “(e) ADMISSION TO PRACTICE.—Subject to section  
 12 500 of title 5, the Transportation Board may regulate the  
 13 admission of individuals to practice before it and may im-  
 14 pose a reasonable admission fee.

15 “(f) BUDGET REQUESTS.—In each annual request  
 16 for appropriations by the President, the Secretary of  
 17 Transportation shall identify the portion thereof intended  
 18 for the support of the Transportation Board and include  
 19 a statement by the Transportation Board—

20 “(1) showing the amount requested by the  
 21 Transportation Board in its budgetary presentation  
 22 to the Secretary and the Office of Management and  
 23 Budget; and

24 “(2) an assessment of the budgetary needs of  
 25 the Transportation Board.

1       “(g) ~~DIRECT TRANSMITTAL TO CONGRESS.~~—The  
 2 Transportation Board shall transmit to Congress copies  
 3 of budget estimates, requests, and information (including  
 4 personnel needs), legislative recommendations, prepared  
 5 testimony for congressional hearings, and comments on  
 6 legislation at the same time they are sent to the Secretary  
 7 of Transportation. An officer of an agency may not impose  
 8 conditions on or impair communications by the Transpor-  
 9 tation Board with Congress, or a committee or member  
 10 of Congress, about the information.

11   **“§ 10304. Annual report**

12       “The Transportation Board shall annually transmit  
 13 to the Congress a report on its activities.”.

14       (b) ~~CONFORMING AMENDMENT.~~—The items relating  
 15 to subchapter I of chapter 103 in the table of sections  
 16 of such chapter are amended to read as follows:

“SUBCHAPTER I—ESTABLISHMENT

“Sec.

“10301. Establishment of Transportation Board.

“10302. Functions.

“10303. Administrative provisions.

“10304. Annual report.”.

17   **SEC. 202. ADMINISTRATIVE SUPPORT.**

18       The Secretary of Transportation shall provide admin-  
 19 istrative support for the Transportation Board.

20   **SEC. 203. REORGANIZATION.**

21       The Chairman of the Transportation Board may allo-  
 22 cate or reallocate any function of the Transportation

1 Board, consistent with this title and subchapter I of chap-  
 2 ter 103, as amended by section 201 of this title, among  
 3 the members or employees of the Transportation Board,  
 4 and may establish, consolidate, alter, or discontinue in the  
 5 Transportation Board any organizational entities that  
 6 were entities of the Interstate Commerce Commission, as  
 7 the Chairman considers necessary or appropriate.

8 **SEC. 204. TRANSFER OF ASSETS.**

9 Except as otherwise provided in this Act and the  
 10 amendments made by this Act, so much of the personnel,  
 11 property, records, and unexpended balances of appropria-  
 12 tions, allocations, and other funds employed, used, held,  
 13 available, or to be made available in connection with a  
 14 function transferred to the Transportation Board by this  
 15 Act shall be available to the Transportation Board for use  
 16 in connection with the functions transferred.

17 **Subtitle B—Administrative**

18 **SEC. 211. POWERS.**

19 Section 10321 is amended—

20 (1) by striking “Interstate Commerce Commis-  
 21 sion” in subsection (a) and inserting in lieu thereof  
 22 “Transportation Board”;

23 (2) striking subsection (b) and inserting the fol-  
 24 lowing:

1       “(b) The Transportation Board may obtain from car-  
 2 riers providing transportation and service subject to this  
 3 part, and from persons controlling, controlled by, or under  
 4 common control with those carriers to the extent that the  
 5 business of that person is related to the management of  
 6 the business of those carriers, information the Transpor-  
 7 tation Board decides is necessary to carry out this part.”;

8           (3) in subsection (c)(1), by striking “Commis-  
 9 sion, an individual Commissioner, an employee  
 10 board, and an employee delegated to act under sec-  
 11 tion 10305 of this title” and inserting in lieu thereof  
 12 “Transportation Board”;

13           (4) by striking paragraph (2) of subsection (c);

14           (5) by redesignating paragraph (3) of sub-  
 15 section (c) as paragraph (2); and

16           (6) by striking “Commission” each place it ap-  
 17 pears and inserting in lieu thereof “Transportation  
 18 Board”.

19 **SEC. 212. COMMISSION ACTION.**

20       (a) AMENDMENTS.—Section 10324 is amended—

21           (1) in the section heading, by striking “**Com-**  
 22 **mission**” and inserting in lieu thereof “**Trans-**  
 23 **portation Board**”;



1           (2) by striking “Interstate Commerce Commis-  
 2           sion” in subsection (a) and inserting in lieu thereof  
 3           “Transportation Board”;

4           (3) by striking “Commission” each place it ap-  
 5           pears in subsection (b) and inserting in lieu thereof  
 6           “Transportation Board”;

7           (4) by striking subsection (c); and

8           (5) by adding at the end the following new sub-  
 9           sections:

10          “(c) The Transportation Board may, at any time on  
 11          its own initiative because of material error, new evidence,  
 12          or substantially changed circumstances—

13               “(1) reopen a proceeding;

14               “(2) grant rehearing, reargument, or reconsid-  
 15          eration of an action of the Transportation Board; or

16               “(3) change an action of the Transportation  
 17          Board.

18          An interested party may petition to reopen and reconsider  
 19          an action of the Transportation Board under this sub-  
 20          section under regulations of the Transportation Board.

21          “(d) Notwithstanding this subtitle, an action of the  
 22          Transportation Board under this section is final on the  
 23          date on which it is served, and a civil action to enforce,  
 24          enjoin, suspend, or set aside the action may be filed after  
 25          that date.”.

1 (b) CONFORMING AMENDMENT.—The item relating  
 2 to section 10324 in the table of sections of chapter 103  
 3 is amended by striking “Commission” and inserting in lieu  
 4 thereof “Transportation Board”.

5 **SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEED-**  
 6 **INGS.**

7 (a) AMENDMENTS.—Section 10329 is amended—

8 (1) by striking “**Commission**” in the section  
 9 heading;

10 (2) by striking “Interstate Commerce Commis-  
 11 sion” in subsection (a) and inserting in lieu thereof  
 12 “Transportation Board”;

13 (3) striking “(1)” in subsection (a) and by  
 14 striking paragraph (2) of subsection (a);

15 (4) striking “subchapter I of” in subsection (a);

16 (5) striking the second sentence in subsection  
 17 (b);

18 (6) striking “(1) in subsection (c) and by strik-  
 19 ing paragraphs (2) and (3);

20 (7) striking “notices of the Commission shall be  
 21 served as follows: (1) A” in subsection (c) and in-  
 22 serting “a”;

23 (6) by striking “, express, sleeping car,” in sub-  
 24 section (c)(1);

1           (7) by striking “Secretary of the” in subsection  
2       ~~(e)~~;

3           ~~(8)~~ in subsection ~~(d)~~—

4                 (A) by striking “, express, sleeping car,”;  
5       and

6                 (B) by striking “who filed the tariff”;

7           ~~(9)~~ by striking subsection ~~(e)~~; and

8           ~~(10)~~ by striking “Commission” each place it ap-  
9       pears and inserting in lieu thereof “Transportation  
10     Board”.

11       (b) CONFORMING AMENDMENT.—The item relating  
12     to section 10329 in the table of sections of chapter 103  
13     is amended by striking “Commission”.

14     **SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.**

15       Section 10330 is amended—

16               (1) by striking “Interstate Commerce Commis-  
17       sion” in subsection (a) and inserting in lieu thereof  
18       “Transportation Board”;

19               (2) by striking “subchapter I of” in the first  
20       sentence of subsection (a);

21               (3) by striking “Secretary of the Commission”  
22       in subsection (a) and inserting in lieu thereof  
23       “Transportation Board”;

24               (4) by striking subsection (b); and

1           (5) by redesignating subsection (c) as sub-  
2           section (b).

3   **SEC. 215. FEDERAL HIGHWAY ADMINISTRATION RULE-**  
4           **MAKING.**

5           The Federal Highway Administration shall issue an  
6   advance notice of proposed rulemaking dealing with a vari-  
7   ety of fatigue-related issues (including 8 hours of continu-  
8   ous sleep after 10 hours of driving, loading and unloading  
9   operations; automated and tamper-proof recording de-  
10   vices; rest and recovery cycles; fatigue and stress in longer  
11   combination vehicles; fitness for duty; and other appro-  
12   priate regulatory and enforcement countermeasures for re-  
13   ducing fatigue-related incidents and increasing driver  
14   alertness) not later than March 1, 1996.

15   **TITLE III—RAIL AND PIPELINE**  
16           **TRANSPORTATION**

17   **SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMIS-**  
18           **SION, ETC.**

19           Subtitle IV is amended—

20           (1) by striking “Interstate Commerce Commis-  
21           sion” each place it appears (including chapter and  
22           section headings) and inserting “Intermodal Surface  
23           Transportation Board”;

24           (2) by striking “Commission” each place it ap-  
25           pears in reference to the Interstate Commerce Com-

mission (including chapter and section headings)  
and inserting “Transportation Board”;

(3) by striking “Commissioner” each place it  
appears in reference to a member of the Interstate  
Commerce Commission (including chapter and sec-  
tion headings) and inserting “Transportation Board  
member”;

(4) by striking “Commissioners” each place it  
appears in reference to members of the Interstate  
Commerce Commission (including chapter and sec-  
tion headings) and inserting “Transportation Board  
members”;

(5) by striking “this subtitle” each place it ap-  
pears and inserting “this part”;

(6) by inserting “PART A—RAIL AND PIPELINE  
CARRIERS” after “SUBTITLE IV—INTERSTATE  
COMMERCE”;

(7) by inserting before section 10101 the follow-  
ing:

“Part B—MOTOR CARRIERS, WATER CARRIERS, BRO-  
KERS, AND FREIGHT FORWARDERS

“Chapter	“Sec.
“131. General provisions .....	13101
“133. Administrative provisions .....	13301
“135. Jurisdiction .....	13501
“137. Rates .....	13701
“139. Registration .....	13901
“141. Operations of carriers .....	14101
“143. Finance .....	14301
“145. Federal-State relations .....	14501
“147. Enforcement; investigations; rights; remedies .....	14701
“149. Civil and criminal penalties .....	14901

1       “PART A-RAIL AND PIPELINE CARRIERS”.

2   **SEC. 302. RAIL TRANSPORTATION POLICY.**

3       Section 10101a is amended by—

4           (1) striking “and” after the semicolon in para-  
5       graph (14);

6           (2) striking the period at the end of paragraph  
7       (15) and inserting a semicolon and “and”; and

8           (3) adding at the end the following:

9           “(16) to provide expeditious remedies for traffic  
10       and facilities lacking effective transportation com-  
11       petition.”.

12   **SEC. 303. DEFINITIONS.**

13       Section 10102 is amended by—

14           (1) striking paragraphs (1), (2), (5), (6) (8)  
15       through (18), (19), (25), (27), and (30) through  
16       (33);

17           (2) redesignating the remaining paragraphs as  
18       paragraphs (1) through (11), respectively;

19           (3) striking paragraph (2) (as redesignated)  
20       and inserting

21           “(2) ‘common carrier’ means a pipeline carrier  
22       and a rail carrier;”;

23           (4) inserting “common carrier” after “railroad”  
24       in paragraph (6) (as redesignated);

1           (5) striking “, fare,” in paragraph (8) (as re-  
2 designated);

3           (6) striking “of passengers or property, or  
4 both,” in paragraph (10)(A) (as redesignated) and  
5 inserting “of property,”; and

6           (7) striking “passengers and” in paragraph  
7 (10)(B) (as redesignated).

8 **SEC. 304. GENERAL JURISDICTION.**

9           Section 10501 is amended by—

10           (1) striking “Subject to this chapter and other  
11 law, the” in subsection (a), and inserting “The”;

12           (2) inserting “of property” after “transporta-  
13 tion” in subsection (a);

14           (3) striking “express carrier, sleeping car car-  
15 rier,” in subsection (a)(1);

16           (4) striking “passengers or” in subsection  
17 (b)(1);

18           (5) striking “subchapter” in subsection (c) and  
19 inserting “chapter” and by striking “(1) the trans-  
20 portation is deemed to be subject to the jurisdiction  
21 of the Commission pursuant to section  
22 11501(b)(4)(B) of this title, or (2)” in subsection  
23 (c); and

24           (6) striking “(b)” after “section 11501” in sub-  
25 section (d).

1 **SEC. 305. RAILROAD AND WATER TRANSPORTATION CON-**  
 2 **NECTIONS AND RATES.**

3 Section ~~10503~~ is amended by—

4 (1) striking “passengers or” each place it ap-  
 5 pears in subsection (a)(2); and

6 (2) striking “passengers,” in subsection  
 7 (a)(2)(B).

8 **SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND**  
 9 **MOTOR CARRIER TRANSPORTATION.**

10 Section ~~10505~~ is amended by—

11 (1) striking “rail carrier and motor carrier”  
 12 from the section heading;

13 (2) striking subsection (a) and inserting the fol-  
 14 lowing:

15 “(a) In a matter subject to the jurisdiction of the  
 16 Intermodal Surface Transportation Board under this  
 17 chapter, the Transportation Board shall exempt a person,  
 18 class of persons, or a transaction or service from the appli-  
 19 cation of a provision of this title in whole or in part within  
 20 180 days after the filing of an application for an exemp-  
 21 tion, when the Transportation Board finds that the appli-  
 22 cation of that provision in whole or in part—

23 “(1) is not necessary to carry out the transpor-  
 24 tation policy of section ~~10101~~ or section ~~10101a~~ of  
 25 this title; and



1           “(2) either (A) the transaction or service is of  
2           limited scope, or (B) the application of a provision  
3           of this title is not needed to protect shippers from  
4           the abuse of market power.”;

5           (3) striking subsection (d) and inserting the fol-  
6           lowing:

7           “(d) The Transportation Board shall revoke an ex-  
8           emption in whole or in part, to the extent that application  
9           of a provision of this title to the person, class, or transpor-  
10          tation is necessary to carry out the transportation policy  
11          of section 10101a of this title. The Transportation Board  
12          shall conclude a proceeding under this subsection within  
13          180 days. In acting upon a request for revocation, the  
14          Transportation Board shall consider the availability of  
15          other economic transportation alternatives, in addition to  
16          any other factors it deems relevant. If a request for rev-  
17          ocation under this subsection is accompanied by a com-  
18          plaint seeking monetary damages for a violation of a provi-  
19          sion of this title by a railroad, and the Transportation  
20          Board does not render a final decision on such request  
21          within 180 days after the filing of the revocation request  
22          and complaint, then any monetary damages which the  
23          Transportation Board may award at the conclusion of the  
24          proceeding shall be calculated no later than the 181st day  
25          following the filing of the revocation request and complaint

1 if the Transportation Board finds that such failure to  
 2 render a final decision within said 180 days is due in sub-  
 3 stantial part to dilatory practices of the railroad”;

4           (4) striking subsection (f) and inserting the fol-  
 5 lowing:

6           “(f) The Transportation Board may exercise its au-  
 7 thority under this section to exempt transportation that  
 8 is provided by a carrier as a part of a continuous inter-  
 9 modal movement.”; and

10           (5) striking subsection (g) and inserting the fol-  
 11 lowing:

12           “(g) The Transportation Board may not exercise its  
 13 authority under this section to relieve a carrier of its obli-  
 14 gation to protect the interests of employees as required  
 15 by this part.”.

16 **SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.**

17           Section 10701 is amended by—

18           (1) redesignating subsection (e) as subsection  
 19 (b);

20           (2) striking “subchapter I or III of chapter  
 21 105” in subsection (b) as so redesignated and insert-  
 22 ing “chapter 105”;

23           (3) striking “the jurisdiction of the Commission  
 24 under either of those subchapters” in subsection (b)  
 25 as so redesignated and inserting “jurisdiction either

1 under chapter 105 of this part or under part B of  
 2 this subtitle”; and

3 (4) striking subsections (d) through (f).

4 **SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.**

5 Section 10701a is amended by—

6 (1) striking “subchapter I of” in subsection (a);

7 (2) striking “lesser of the percentages described  
 8 in clauses (i) and (ii) of section 10707a(e)(2)(A) of  
 9 this title” in subparagraphs (2)(A)(i) and (2)(B)(i)  
 10 of subsection (b); and inserting “percentage de-  
 11 scribed in section 10707a(d)(2)(A)”;

12 (3) adding at the end of subsection (b) the fol-  
 13 lowing:

14 “(4)(A) Within 1 year after the date of enact-  
 15 ment of the Interstate Commerce Commission Sun-  
 16 set Act of 1995, the Transportation Board shall  
 17 complete the Interstate Commerce Commission non-  
 18 coal rate guidelines proceeding pending on the date  
 19 of enactment of the Interstate Commerce Commis-  
 20 sion Sunset Act of 1995 to establish a simplified and  
 21 expedited method for determining the reasonableness  
 22 of challenged rail rates in those cases in which a  
 23 stand-alone cost presentation is impractical.

24 “(B) Within 6 months after that date of enact-  
 25 ment, the Transportation Board shall establish pro-

cedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and for ensuring prompt disposition of motions and interlocutory administrative appeals.

“(C) In a proceeding to challenge the reasonableness of a railroad rate, other than a proceeding arising under section 10707 of this title, the Transportation Board shall make its determination as to the reasonableness of the challenged rate—

“(i) within 6 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

“(ii) within 3 months after the close of the administrative record if the determination is based upon an alternative, simplified evidentiary presentation.”.

**SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, ETC.**

Section 10702 is amended by—

- 1           (1) beginning with “service,” in paragraph (2)  
 2           of subsection (a) striking all that follows and insert-  
 3           ing “service.”; and  
 4           (2) striking subsections (b) and (c).

5 **SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH**  
 6 **THROUGH ROUTES.**

7           Section 10703 is amended by—

- 8           (1) striking “, express, sleeping car,” in para-  
 9           graph (1) of subsection (a);  
 10          (2) striking paragraphs (3) and (4) of sub-  
 11          section (a); and  
 12          (3) replacing “Commission under subchapter I,  
 13          H (insofar as motor carriers of property are con-  
 14          cerned), or III of” in subsection (b) with “Transpor-  
 15          tation Board under”.

16 **SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED**  
 17 **RATES, CLASSIFICATIONS, ETC.**

18          Section 10704 is amended by—

- 19          (1) striking “subchapter I of” and “(including  
 20          a maximum or minimum rate, or both)” in the first  
 21          sentence of subsection (a)(1);  
 22          (2) striking “subchapter” in the first sentence  
 23          of subsection (a)(2) and inserting “chapter”;  
 24          (3) striking the third sentence of subsection  
 25          (a)(2);

1           (4) striking paragraph (3) of subsection (a) and  
2       redesignating paragraph (4) as (3);

3           (5) striking “within 180 days after the effective  
4       date of the Staggers Rail Act of 1980 and” and  
5       “thereafter” in subsection (a)(3), as redesignated;

6           (6) striking subsections (b), (c), (d) and (e);

7           (7) redesignating subsection (f) as subsection  
8       (b);

9           (8) striking “on its own initiative or” in sub-  
10       section (b) as redesignated; and

11          (9) striking the last sentence of subsection (b),  
12       as redesignated.

13 **SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH**  
14 **ROUTES, JOINT CLASSIFICATIONS, ETC.**

15       Section 10705 is amended by—

16          (1) striking “subchapter I, II (except a motor  
17       common carrier of property), or III of”, and “(in-  
18       cluding maximum or minimum rates or both)” in  
19       paragraph (1) of subsection (a);

20          (2) striking paragraph (3) of subsection (a);

21          (3) striking subsections (b) and (h) and redesi-  
22       gnating subsections (c) through (g) as subsections  
23       (b) through (f);

1           (4) striking “or (b)” and “, water carrier, or  
2           motor common carrier of property” in subsection  
3           (b); as redesignated;

4           (5) striking “tariff” in subsection (d), as redesi-  
5           gnated; and inserting “proposed rate change”;

6           (6) striking “, water common carrier, or motor  
7           common carrier of property” in subsection (d), as  
8           redesignated;

9           (7) striking “or (b)” and “on its own initiative  
10          or” in the first sentence of subsection (e)(1) as re-  
11          designated;

12          (8) striking “if the proceeding is brought on  
13          complaint or within 18 months after the commence-  
14          ment of a proceeding on the initiative of the Com-  
15          mission” in the second sentence of subsection (e)(1);  
16          as redesignated; and

17          (9) striking “subsection (f)” in subsection (f),  
18          as redesignated; and inserting “subsection (e)”.

19   **SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.**

20          Section 10706 is amended by—

21               (1) striking subsection (a)(3)(B);

22               (2) redesignating paragraphs (3)(C) and (D) of  
23          subsection (a) as paragraphs (3)(B) and (C);

1           ~~(3)~~ striking “consider” in subsection  
 2           ~~(a)(3)(B)(ii)(II)~~, as redesignated, and inserting  
 3           “considered”;

4           ~~(4)~~ striking “subchapter I of” in subsection  
 5           ~~(a)(5)(A)~~;

6           ~~(5)~~ striking “the effective date of the Staggers  
 7           Rail Act of 1980” in subsection ~~(a)(5)(C)~~, and in-  
 8           serting “October 1, 1980,”;

9           ~~(6)~~ striking subsections ~~(b)~~, ~~(c)~~, and ~~(d)~~ and re-  
 10          designating subsections ~~(c)~~ through ~~(g)~~ as sub-  
 11          sections ~~(b)~~ through ~~(d)~~;

12          ~~(7)~~ striking the first sentence of subsection ~~(c)~~,  
 13          as redesignated, and inserting “The Transportation  
 14          Board may review an agreement approved under  
 15          subsection ~~(a)~~ of this section and shall change the  
 16          conditions of approval or terminate it when nec-  
 17          essary to comply with the public interest.”;

18          ~~(8)~~ striking “subsection ~~(a)~~, ~~(b)~~, or ~~(c)~~ of this  
 19          section.” in subsection ~~(d)~~, as redesignated and in-  
 20          serting “subsection ~~(a)~~.”; and

21          ~~(9)~~ striking subsections ~~(h)~~ and ~~(i)~~.

22   **SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL**  
 23                   **RATES, ETC.**

24          Section 10707 is amended by—



1           (1) striking the first sentence of subsection (a)  
 2           and inserting “When a new individual or joint rate  
 3           or individual or joint classification, rule, or practice  
 4           related to a rate is proposed by a rail carrier provid-  
 5           ing transportation subject to the jurisdiction of the  
 6           Intermodal Surface Transportation Board under  
 7           chapter 105 of this title, the Transportation Board  
 8           may begin a proceeding, on complaint of an inter-  
 9           ested party, to determine whether the proposed rate,  
 10          classification, rule, or practice violates this part.”;

11          (2) striking “days, except that this paragraph  
 12          shall not apply to general rate increases under sec-  
 13          tion 10706 of this title.” in subsection (d)(2) and in-  
 14          serting “days.”;

15          (3) striking subsection (d)(3) and redesignating  
 16          subsection (d)(4) as (d)(3); and

17          (4) striking “or section 10761” in subsection  
 18          (d)(3), as redesignated.

19 **SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.**

20          Section 10707a is amended by—

21          (1) striking “Commencing with the fourth quar-  
 22          ter of 1980, the” in subsection (a)(2)(B) and insert-  
 23          ing “The”;

1           (2) striking “subchapter I of chapter 105 of  
2           this title may” in subsection (b)(1) and inserting  
3           “chapter 105 of this title is authorized to”;

4           (3) inserting a period after “involved” in para-  
5           graph (1) of subsection (b) and striking the remain-  
6           der of the paragraph;

7           (4) striking “may not” in subsection (b)(3) and  
8           inserting “is not authorized to”;

9           (5) striking “(A)” and “or (B) inflation based  
10          rate increases under section 10712 of this title appli-  
11          cable to that rate” in subsection (b)(3);

12          (6) striking subsections (c), (d) and (e); redesi-  
13          gnating subsections (f), (g), and (h) as subsections  
14          (d), (e), and (f), and inserting after subsection (b)  
15          the following:

16          “(c) In determining whether a rate is reasonable, the  
17          Transportation Board shall consider, among other factors,  
18          evidence of the following:

19                 “(1) the amount of traffic which is transported  
20                 at revenues which do not contribute to going concern  
21                 value and efforts made to minimize such traffic;

22                 “(2) the amount of traffic which contributes  
23                 only marginally to fixed costs and the extent to  
24                 which, if any, rates on such traffic can be changed  
25                 to maximize the revenues from such traffic; and

1           ~~“(3) the carrier’s mix of rail traffic to deter-~~  
 2           ~~mine whether one commodity is paying an unreason-~~  
 3           ~~able share of the carrier’s overall revenues.”; and~~

4           (7) by striking subsection (d), as redesignated,  
 5           and inserting the following:

6           ~~“(d)(1) A finding by the Commission that a rate in-~~  
 7           ~~crease exceeds the increase authorized under this section~~  
 8           ~~does not establish a presumption that the rail carrier pro-~~  
 9           ~~posing such rate increase has or does not have market~~  
 10          ~~dominance over the transportation to which the rate ap-~~  
 11          ~~plies.~~

12          ~~“(2)(A) If a rate increase authorized under this sec-~~  
 13          ~~tion in any year results in a revenue-variable cost percent-~~  
 14          ~~age for the transportation to which the rate applies that~~  
 15          ~~is equal to or greater than 20 percentage points above the~~  
 16          ~~revenue-variable cost percentage applicable under section~~  
 17          ~~10709(d) of this title, the Transportation Board may on~~  
 18          ~~complaint of an interested party, begin an investigation~~  
 19          ~~proceeding to determine whether the proposed rate in-~~  
 20          ~~crease violates this subtitle.~~

21          ~~“(B) In determining whether to investigate or not to~~  
 22          ~~investigate any proposed rate increase that results in a~~  
 23          ~~revenue-variable cost percentage for the transportation to~~  
 24          ~~which the rate applies that is equal to or greater than the~~  
 25          ~~percentage described in subparagraph (A) of this para-~~

1 graph (without regard to whether such rate increase is au-  
 2 thorized under this section), the Transportation Board  
 3 shall set forth its reasons therefor, giving due consider-  
 4 ation to the following factors:

5 “(i) the amount of traffic which is transported  
 6 at revenues which do not contribute to going concern  
 7 value and efforts made to minimize such traffic;

8 “(ii) the amount of traffic which contributes  
 9 only marginally to fixed costs and the extent to  
 10 which, if any, rates on such traffic can be changed  
 11 to maximize the revenues from such traffic; and

12 “(iii) the impact of the proposed rate or rate in-  
 13 crease on the attainment of the national energy  
 14 goals and the rail transportation policy under section  
 15 10101a of this title, taking into account the rail-  
 16 roads’ role as a primary source of energy transpor-  
 17 tation and the need for a sound rail transportation  
 18 system in accordance with the revenue adequacy  
 19 goals of section 10704 of this title.

20 This subparagraph shall not be construed to change exist-  
 21 ing law with regard to the nonreviewability of such deter-  
 22 mination.”.

23 **SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPE-**  
 24 **LINE CARRIER RATES, ETC.**

25 Section 10708 is amended by—

1           (1) striking subsection (a)(1) and inserting the  
2           following:

3           “(a)(1) The Intermodal Surface Transportation  
4 Board may begin a proceeding to determine the lawfulness  
5 of a proposed rate, classification, rule, or practice on appli-  
6 cation of an interested party when a new individual or  
7 joint rate or individual or joint classification, rule, or prac-  
8 tice affecting a rate is proposed by a pipeline carrier sub-  
9 ject to the Transportation Board’s jurisdiction under  
10 chapter 105 of this part.”;

11           (2) striking “an express, sleeping car, or” in  
12 the third sentence of subsection (b) and inserting  
13 “a”; and

14           (3) striking subsections (d) through (g).

15 **SEC. 317. DETERMINATION OF MARKET DOMINANCE.**

16 Section 10709 is amended by—

17           (1) adding at the end of subsection (a) the fol-  
18 lowing: “In making a determination under this sec-  
19 tion, the Transportation Board shall consider the  
20 availability of other economic transportation alter-  
21 natives, in addition to any other factors it deems rel-  
22 evant.”

23           (2) striking “subchapter I of” in the first sen-  
24 tence of subsection (b); and

1           ~~(3)~~ striking subsection (d) and inserting the fol-  
 2           lowing:

3           ~~“(d) DETERMINATIONS OF RATE CHALLENGES.—~~

4           ~~“(1) 180 PERCENT SAFE HARBOR.—In making a~~  
 5           determination under this section, the Transportation  
 6           Board shall find that the rail carrier establishing the  
 7           challenged rate does not have market dominance  
 8           over the transportation to which the rate applies if  
 9           such rail carrier proves that the rate charged results  
 10          in a revenue-variable cost percentage for such trans-  
 11          portation that is less than 180 percent.

12          ~~“(2) METHODOLOGY.—For purposes of deter-~~  
 13          mining the revenue-variable cost percentage for a  
 14          particular transportation, variable costs shall be de-  
 15          termined by using the carrier's costs, calculated  
 16          using the Uniform Railroad Costing System (or an  
 17          alternative cost finding methodology adopted by the  
 18          Transportation Board in lieu thereof), with use of  
 19          the current cost of capital for calculating the return  
 20          on investment, and indexed quarterly to account for  
 21          current wage and price levels in the region in which  
 22          the carrier operates.

23          ~~(3) BURDEN OF PROOF; REBUTTAL.—A rail~~  
 24          carrier may meet its burden of proof under this sub-  
 25          section by so establishing its variable costs, but a

1 shipper may rebut that showing by evidence of such  
 2 type, and in accordance with such burden of proof,  
 3 as the Transportation Board may prescribe.

4 (4) NO PRESUMPTIONS CREATED.—A finding  
 5 by the Transportation Board that a rate charged by  
 6 a rail carrier results in a revenue-variable cost per-  
 7 centage for the transportation to which the rate ap-  
 8 plies that is equal to or greater than 180 percent  
 9 does not establish a presumption that—

10 “(A) such rail carrier has or does not have  
 11 market dominance over such transportation, or

12 “(B) the proposed rate exceeds or does not  
 13 exceed a reasonable maximum.”.

14 **SEC. 318. CONTRACTS.**

15 Section 10713 is amended by—

16 (1) striking “subchapter I of” in the first sen-  
 17 tence of subsection (a);

18 (2) striking subsection (b)(1) and inserting the  
 19 following:

20 “(b)(1) A summary of each contract for the transpor-  
 21 tation of agricultural products, including grain as defined  
 22 in section 3 of the United States Grain Standards Act (7  
 23 U.S.C. 75) and products thereof, entered into under this  
 24 section shall be filed with the Transportation Board, con-  
 25 taining such nonconfidential information as the Transpor-

1 tation Board prescribes. The Transportation Board shall  
 2 publish special rules for such contracts in order to assure  
 3 that the essential terms of the contract are available to  
 4 the general public. The parties to any such contract shall  
 5 supply a copy of the full contract to the Transportation  
 6 Board upon request.”;

7           (3) striking “in tariff format” in subparagraphs  
 8       (A) and (C) of subsection (b)(2);

9           (4) striking subsection (b)(2)(D);

10          (5) striking “other than a contract for the  
 11       transportation of agricultural commodities (including  
 12       forest products and paper),” in subsection (d)(2)(A)  
 13       and inserting “for the transportation of agricultural  
 14       commodities,”;

15          (6) strike “only” in (d)(2)(A)(i);

16          (7) striking “the case of a contract for the  
 17       transportation of agricultural commodities (including  
 18       forest products and paper); in” in subsection  
 19       (d)(2)(B);

20          (8) inserting “of agricultural commodities”  
 21       after “filed by a shipper” in subsection (d)(2)(B);

22          (9) striking the last sentence of subsection  
 23       (d)(2)(B);

24          (10) striking “A contract that is approved by  
 25       the Commission” in subsection (i)(1) and inserting



1 “If the shipper in writing expressly waives all rights  
2 and remedies under this part for the transportation  
3 covered by the contract, a contract entered into”;

4 (11) striking subsections (l) and (m); and

5 (12) striking “(including forest products but  
6 not including wood pulp, wood chips, pulpwood or  
7 paper)” in subsection (i)(1).

8 **SEC. 319. RATES AND LIABILITY BASED ON VALUE.**

9 Section 10730 is amended by—

10 (1) striking subsections (a) and (b);

11 (2) striking “(c)”;

12 (3) striking “rail carrier” and inserting “car-  
13 rier”; and

14 (4) striking “subchapter I of”.

15 **SEC. 320. PROHIBITIONS AGAINST DISCRIMINATION BY**  
16 **COMMON CARRIERS.**

17 Section 10741 is amended by—

18 (1) striking “subchapter I of” in subsection (a);

19 (2) striking subsection (c) and inserting the fol-  
20 lowing:

21 “(c) A carrier providing transportation subject to the  
22 jurisdiction of the Transportation Board under chapter  
23 105 of this title may not subject a freight forwarder pro-  
24 viding service subject to jurisdiction under part B of this

1 subtitle to unreasonable discrimination whether or not the  
2 freight forwarder is controlled by that carrier.”;

3           (3) striking “subchapter I of” in subsection (e);

4           (4) striking subsection (f)(1) and inserting the  
5 following: “(1) contracts under section 10713 of this  
6 title;”;

7           (5) striking paragraphs (2), (3), and (5) of sub-  
8 section (f) and redesignating paragraph (4) as para-  
9 graph (2); and

10           (6) striking “paragraphs (2), (3), and (4)” in  
11 subsection (f) and inserting “paragraph (2)”.

12 **SEC. 321. FACILITIES FOR INTERCHANGE OF TRAFFIC.**

13 Section 10742 is amended by—

14           (1) striking “subchapter I or III of” and “pas-  
15 sengers and”; and

16           (2) striking “either of those subchapters.” and  
17 inserting “Part A or B of this subtitle.”.

18 **SEC. 322. LIABILITY FOR PAYMENT OF RATES.**

19 Section 10744 is amended by—

20           (1) striking “, motor, or water common” in the  
21 first sentence of subsection (a)(1);

22           (2) striking “or express” in the first sentence of  
23 subsection (b);

24           (3) striking “subtitle” in the first sentence of  
25 subsections (a)(1) and (b) and inserting “part”;

1           (4) striking paragraph (2) of subsection (c) and  
 2           renumbering paragraph (3) as paragraph (2); and  
 3           (5) striking “or express” in subsection (c)(2),  
 4           as redesignated.

5 **SEC. 323. CONTINUOUS CARRIAGE OF FREIGHT.**

6           Section 10745 is amended by striking “subchapter I  
 7           of”.

8 **SEC. 324. TRANSPORTATION SERVICES OR FACILITIES FUR-**  
 9                               **NISHED BY SHIPPER.**

10          Section 10747 is amended by—

11           (1) striking the first and second sentences and  
 12           inserting the following: “A carrier providing trans-  
 13           portation or service subject to the jurisdiction of the  
 14           Intermodal Surface Transportation Board under  
 15           chapter 105 of this title may establish a charge or  
 16           allowance for transportation or service for property  
 17           when the owner of the property, directly or indi-  
 18           rectly, furnishes a service related to or an instru-  
 19           mentality used in the transportation or service. The  
 20           Transportation Board may prescribe the maximum  
 21           reasonable charge or allowance paid for such service  
 22           or instrumentality furnished.”; and  
 23           (2) striking “on its own initiative or” in the  
 24           last sentence.

1 **SEC. 325. DEMURRAGE CHARGES.**

2 Section 10750 is amended by striking “subchapter I  
3 of”.

4 **SEC. 326. TRANSPORTATION PROHIBITED WITHOUT TAR-**  
5 **IFF.**

6 Section 10761 is amended to read as follows:

7 **“§ 10761. Transportation prohibited without tariff.**

8 “Except when providing transportation by contract  
9 as provided in this subtitle, a carrier providing transpor-  
10 tation of agricultural products including grain as defined  
11 in section 3 of the United States Grain Standards Act (7  
12 U.S.C. 75) and products thereof, subject to the jurisdic-  
13 tion of the Intermodal Surface Transportation Board  
14 under chapter 105 of this title shall provide that transpor-  
15 tation only if the rate for the transportation is contained  
16 in a tariff that is in effect under this subchapter. A carrier  
17 subject to this subsection may not charge or receive a dif-  
18 ferent compensation for that transportation than the rate  
19 specified in the tariff whether by returning a part of that  
20 rate to a person, giving a person a privilege, allowing the  
21 use of a facility that affects the value of that transpor-  
22 tation, or another device.”.

23 **SEC. 326. GENERAL ELIMINATION OF TARIFF FILING RE-**  
24 **QUIREMENTS.**

25 Section 10762 is amended to read as follows:

1 **~~“§ 10762. General elimination of tariff filing requirements.~~**

2       ~~“(a) Except as provided in this section and section~~  
 3 ~~10713 of this title, a carrier providing transportation of~~  
 4 ~~agricultural products including grain as defined in section~~  
 5 ~~3 of the United States Grain Standards Act (7 U.S.C. 75)~~  
 6 ~~and products thereof, subject to the jurisdiction of the~~  
 7 ~~Intermodal Surface Transportation Board under chapter~~  
 8 ~~105 of this title shall publish, keep open and retain for~~  
 9 ~~public inspection, and immediately furnish to an entity re-~~  
 10 ~~questing the same, tariffs containing its rates for the~~  
 11 ~~transportation of such commodities and its classifications,~~  
 12 ~~rules, and practices related to such rates.~~

13       ~~“(b)(1) Within 180 days after the enactment of the~~  
 14 ~~Interstate Commerce Commission Sunset Act of 1995, the~~  
 15 ~~Intermodal Surface Transportation Board shall prescribe~~  
 16 ~~the form and manner of publishing, keeping open, furnish-~~  
 17 ~~ing to the public, and retaining for public inspection tariffs~~  
 18 ~~under this section. The Transportation Board may pre-~~  
 19 ~~scribe specific charges to be identified in a tariff required~~  
 20 ~~under this section to be published, kept open, furnished~~  
 21 ~~to the public, or retained for public inspection, but those~~  
 22 ~~tariffs must identify plainly—~~

23               ~~“(A) the places between which property will be~~  
 24       ~~transported;~~

25               ~~“(B) privileges given and facilities allowed; and~~

1           ~~“(C) any rules that change, affect, or determine~~  
2           ~~any part of the published rate.~~

3           ~~“(2) A joint tariff published and filed by a carrier~~  
4           ~~under this section shall identify the carriers that are par-~~  
5           ~~ties to it. The carriers that are parties to a joint tariff,~~  
6           ~~other than the carrier filing it, must file a concurrence~~  
7           ~~or acceptance of the tariff with the Transportation Board.~~  
8           ~~The Transportation Board may prescribe or approve what~~  
9           ~~constitutes a concurrence or acceptance.~~

10          ~~“(c)(1) When a carrier proposes to change a rate for~~  
11          ~~transportation subject to this section, or a classification,~~  
12          ~~rule, or practice related to such rate the carrier shall pub-~~  
13          ~~lish, transmit, and keep open for public inspection a notice~~  
14          ~~of the proposed change as required under subsections (a)~~  
15          ~~and (b) of this section.~~

16          ~~“(2) A notice published or filed under this subsection~~  
17          ~~shall plainly identify the proposed change or new or re-~~  
18          ~~duced rate and indicate its proposed effective date. A pro-~~  
19          ~~posed rate change resulting in an increased rate or a new~~  
20          ~~rate shall not become effective for 20 days after the notice~~  
21          ~~is published and a proposed rate change resulting in a re-~~  
22          ~~duced rate shall not become effective for 1 day after the~~  
23          ~~notice is published, except that a contract authorized~~  
24          ~~under section 10713 of this title shall become effective in~~  
25          ~~accordance with the provisions of such section.~~

1       “(d) The Transportation Board may reduce the no-  
 2       tice period of subsection (c) of this section if cause exists.  
 3       The Transportation Board may change the other require-  
 4       ments of this section if cause exists in particular instances  
 5       or as they apply to special circumstances.

6       “(e) Acting in response to a complaint or on its own  
 7       motion, the Transportation Board may reject a tariff pub-  
 8       lished or filed under this section if that tariff violates this  
 9       section or a regulation of the Transportation Board carry-  
 10      ing out this section.”.

11      **SEC. 327. DESIGNATION OF CERTAIN ROUTES.**

12      Section 10763 is amended by striking “subchapter I  
 13      of” in subsection (a)(1).

14      **SEC. 328. AUTHORIZING CONSTRUCTION AND OPERATION**  
 15                      **OF RAILROAD LINES.**

16      Section 10901 is amended by—

17              (1) striking “subchapter I of” in subsection (a);

18              and

19              (2) adding at the end the following new sub-  
 20      section:

21      “(f) **SPECIAL RULE FOR NON-CLASS I TRANS-**  
 22      **ACTIONS.**—For all transactions involving Class II freight  
 23      rail carriers, Class III freight rail carriers and non-car-  
 24      riers, that are not owned or controlled by a Class I rail  
 25      carrier and that are not a commuter, switching or terminal

1 railroad, which propose to sell, acquire, construct, operate,  
 2 or provide transportation over a railroad line pursuant to  
 3 this section, the Transportation Board may, consistent  
 4 with the public interest, require an arrangement for the  
 5 protection of the interest of railroad employees who are  
 6 adversely affected by the transaction not to exceed one  
 7 year's salary per adversely affected employee and protec-  
 8 tion no less than required by sections 2 through 5 of the  
 9 Worker Adjustment and Retraining Act, unless the ad-  
 10 versely affected employees or their representatives and the  
 11 parties to the transaction agree otherwise.”.

12 **SEC. 329. AUTHORIZING ACTION TO PROVIDE FACILITIES.**

13 Section 10902 is amended by striking “subchapter I  
 14 of” in the first sentence.

15 **SEC. 330. AUTHORIZING ABANDONMENT AND DISCONTINU-**  
 16 **ANCE.**

17 Section 10903 is amended by striking “subchapter I  
 18 of” in subsection (a).

19 **SEC. 331. FILING AND PROCEDURE FOR APPLICATIONS TO**  
 20 **ABANDON OR DISCONTINUE.**

21 Section 10904 is amended by—

- 22 (1) striking “subchapter I of” in subsection
- 23 (a)(2);
- 24 (2) striking subsection (d)(2);
- 25 (3) striking “(1)” in subsection (d); and



1           (4) striking “the application was approved by  
2           the Secretary of Transportation as part of a plan or  
3           proposal under section 333(a)-(d) of this title, or” in  
4           subsection (e)(3).

5   **SEC. 332. EXCEPTIONS.**

6           Section 10907 is amended by striking “subchapter I  
7   of” in subsection (a).

8   **SEC. 333. RAILROAD DEVELOPMENT.**

9           Section 10910 is amended by—

10           (1) striking paragraph (2) of subsection (a) and  
11           inserting the following:

12           “(2) ‘railroad line’ means any line of railroad.”;

13           (2) striking “the effective date of the Staggers  
14           Rail Act of 1980” in subsection (g)(2), and inserting  
15           “October 1, 1980,”; and

16           (3) striking subsection (k) and inserting the fol-  
17           lowing:

18           “(k) The Transportation Board shall maintain such  
19           regulations and procedures as may be necessary to carry  
20           out the provisions of this section.”.

21   **SEC. 334. PROVIDING TRANSPORTATION, SERVICE, AND**  
22           **RATES.**

23           Section 11101 is amended to read as follows:

1 **“§ 11101. Providing transportation, service, and rates**

2       “(a) A carrier providing transportation or service  
3 subject to the jurisdiction of the Intermodal Surface  
4 Transportation Board under chapter 105 of this title shall  
5 provide the transportation or service on reasonable re-  
6 quest.

7       “(b) Notwithstanding any other provision of this title,  
8 a rail carrier providing transportation service subject to  
9 the jurisdiction of the Transportation Board under chap-  
10 ter 105 of this title shall provide, on reasonable written  
11 request, common carrier rates and other common carrier  
12 service terms of the type requested for specified services  
13 between specified points. The response by a rail carrier  
14 to a request for such rates or other service terms shall  
15 be in writing and forwarded to the requesting person no  
16 later than 30 days after receipt of the request. A rail car-  
17 rier shall not refuse to respond to a request under this  
18 subsection on grounds that the movement at issue is sub-  
19 ject at the time a request is made to a contract entered  
20 into under section 10713 of this title.

21       “(c) Common carrier rates and service terms pro-  
22 vided pursuant to subsection (b) of this section shall be  
23 subject to the provisions of this title.

24       “(d) A rail carrier may not increase any common car-  
25 rier rates, or change any common carrier service terms,  
26 provided pursuant to subsection (b) unless at least 20

1 days' written notice is first provided to the person that  
 2 made the request for the issue rate or service. Any such  
 3 increases or changes shall be subject to provisions of this  
 4 subtitle.''.  
 5

5 **SEC. 335. USE OF TERMINAL FACILITIES.**

6 Section 11103 is amended by striking "subchapter I  
 7 of" in subsection (a).

8 **SEC. 336. SWITCH CONNECTIONS AND TRACKS.**

9 Section 11104 is amended by striking "subchapter I  
 10 of" in subsection (a).

11 **SEC. 337. CRITERIA.**

12 Section 11121 is amended by—

13 (1) striking "subchapter I of" in subsection  
 14 (a)(1);

15 (2) striking subsection (a)(2) and inserting the  
 16 following:

17 "(2) The Transportation Board may require a  
 18 rail carrier to file its car service rules with the  
 19 Transportation Board.'';

20 (3) striking ", 11127," in subsection (b); and

21 (4) adding at the end the following:

22 "(c) The Transportation Board shall consult, as it  
 23 deems necessary, with the National Grain Car Council on  
 24 matters within the charter of that body.'".

1 **SEC. 338. REROUTING TRAFFIC ON FAILURE OF RAIL CAR-**  
 2 **RIER TO SERVE PUBLIC.**

3 Section 11124 is amended by striking “subchapter I  
 4 of” in subsection (a).

5 **SEC. 339. DIRECTED RAIL TRANSPORTATION.**

6 Section 11125 is amended by striking “subchapter I  
 7 of” in subsection (a).

8 **SEC. 340. WAR EMERGENCIES; EMBARGOES.**

9 Section 11128 is amended by—

10 (1) striking “sections 11123(a)(4) and  
 11 11127(a)(1)(C)” and inserting “section 11123(a)” in sub-  
 12 section (a)(1); and

13 (2) striking “subchapter I of” in subsection (a)(2).

14 **SEC. 341. DEFINITIONS FOR SUBCHAPTER III.**

15 Section 11141 is amended to read as follows:

16 **“§ 11141. Definitions**

17 **“In this subchapter—**

18 “(1) ‘carrier’ and ‘lessor’ include a receiver or  
 19 trustee of a carrier and lessor respectively.

20 “(2) ‘lessor’ means a person owning a railroad  
 21 or a pipeline that is leased to and operated by a car-  
 22 rier providing transportation subject to the jurisdic-  
 23 tion of the Intermodal Surface Transportation  
 24 Board under chapter 105 of this title.

25 “(3) ‘association’ means an organization main-  
 26 tained by or in the interest of a group of carriers

1 providing transportation or service subject to the ju-  
 2 risdiction of the Intermodal Surface Transportation  
 3 Board that performs a service, or engages in activi-  
 4 ties, related to transportation under this part.”.

5 **SEC. 342. DEPRECIATION CHARGES.**

6 Section ~~11143~~ is amended by—

- 7 (1) striking “subchapter I or III of”; and  
 8 (2) striking “and may, for a class of carriers  
 9 providing transportation subject to its jurisdiction  
 10 under subchapter II of that chapter,”.

11 **SEC. 343. RECORDS, ETC.**

12 Section ~~11144~~ is amended by—

- 13 (1) striking “, brokers,” in subsection (a)(1);  
 14 (2) striking “or express” and “subchapter I of”  
 15 in subsection (a)(2);  
 16 (3) striking “, broker,” in subsection (b)(1);  
 17 (4) striking “broker,” in subsection (b)(2)(A);  
 18 (5) striking “or express” in subsection  
 19 (b)(2)(C);  
 20 (6) redesignating subsection (d) as subsection  
 21 (e); and  
 22 (7) striking “brokers,” in subsection (e), as re-  
 23 designated.

1 **SEC. 344. REPORTS BY CARRIERS, LESSORS, AND ASSOCIA-**  
 2 **TIONS.**

3 Section ~~11145~~ is amended by—

- 4 (1) striking “brokers,” in subsection (a)(1);  
 5 (2) striking “or express,” in subsection (a)(2);  
 6 (3) striking “broker,” in the first sentence of  
 7 subsection (b)(1);  
 8 (4) striking the second sentence of subsection  
 9 (b)(1); and  
 10 (5) striking subsection (c).

11 **SEC. 345. ACCOUNTING AND COST REPORTING.**

12 Section ~~11166~~ is amended by—

- 13 (1) striking “subchapter I of” in the first sen-  
 14 tence of subsection (a);  
 15 (2) striking the third sentence of subsection (a);  
 16 and  
 17 (3) striking “the cost accounting principles es-  
 18 tablished by the Transportation Board or under gen-  
 19 erally accepted accounting principles or the require-  
 20 ments of the Securities and Exchange Commission”  
 21 in subsection (b) and inserting “the appropriate cost  
 22 accounting principles”.

23 **SEC. 346. EQUIPMENT TRUSTS.**

24 Section ~~11303~~ is amended by adding at the end  
 25 thereof the following:

1       “(c) The Transportation Board shall collect, maintain  
2 and keep open for public inspection a railway equipment  
3 register consistent with the manner and format main-  
4 tained at the time of enactment of the Interstate Com-  
5 merce Commission Sunset Act of 1995.

6       “(d) A mortgage, lease, equipment trust agreement,  
7 conditional sales agreement, or other instrument evidenc-  
8 ing the mortgage, lease, conditional sale, or bailment of  
9 or security interest in railroad cars, locomotives, or other  
10 rolling stock, or accessories used on such railroad cars,  
11 locomotives, or other rolling stock (including super-  
12 structures and racks); or any assignment thereof, which—

13               “(1) is duly constituted under the laws of a  
14 country other than the United States; and

15               “(2) relates to property that bears the reporting  
16 marks and identification numbers of any person  
17 domiciled in or corporation organized under the laws  
18 of such country;

19 shall be recognized with the same effect as having been  
20 filed under this section.

21       “(e) Interests with respect to which documents are  
22 filed or recognized under this section are deemed perfected  
23 in all jurisdictions, and shall be governed by applicable  
24 State or foreign law in all matters not specifically gov-  
25 erned by this section.”.

1 **SEC. 347. RESTRICTIONS ON OFFICERS AND DIRECTORS.**

2 Section ~~11322~~ is amended by—

3 (1) redesignating subsections (a) and (b) as  
4 subsections (b) and (c), respectively;

5 (2) inserting before subsection (b), as redesign-  
6 nated, the following:

7 “(a) In this section “carrier” means a rail carrier  
8 providing transportation subject to the jurisdiction of the  
9 Intermodal Surface Transportation Board under chapter  
10 105 of this title (except a street, suburban, or interurban  
11 electric railway not operated as a part of a general railroad  
12 system of transportation); and a corporation organized to  
13 provide transportation by rail carrier subject to that chap-  
14 ter.”;

15 (3) striking “as defined in section ~~11301(a)(1)~~  
16 of this title” in subsection (b) as redesignated; and

17 (4) striking “subsection (a)” and inserting  
18 “subsection (b)” in subsection (c), as redesignated.

19 **SEC. 348. LIMITATION ON POOLING AND DIVISION OF**  
20 **TRANSPORTATION OR EARNINGS.**

21 Section ~~11342~~ is amended by—

22 (1) striking “subchapter I, II, or III of” in the  
23 first sentence of subsection (a);

24 (2) striking “Except as provided in subsection  
25 (b) for agreements or combinations between or  
26 among motor common carriers of property, the” in



1 the second sentence of subsection (a) and inserting  
 2 “The”; and

3 (3) striking subsections (b) and (d) and redesignig-  
 4 nating subsections (c) and (e) as subsections (b) and  
 5 (c), respectively.

6 **SEC. 349. CONSOLIDATION, MERGER, AND ACQUISITION OF**  
 7 **CONTROL.**

8 Section 11343 is amended by—

9 (1) inserting “(except a pipeline carrier)” after  
 10 “involving carriers” in subsection (a);

11 (2) striking “subchapter I (except a pipeline  
 12 carrier), II, or III of” in subsection (a);

13 (3) striking paragraph (1) of subsection (d) and  
 14 striking “(2)” in paragraph (2); and

15 (4) striking subsection (e).

16 **SEC. 350. GENERAL PROCEDURE AND CONDITIONS OF AP-**  
 17 **PROVAL FOR CONSOLIDATION, ETC.**

18 Section 11344 is amended by—

19 (1) striking the third sentence in subsection (a);

20 (2) striking “subchapter I of that chapter” in  
 21 the last sentence of subsection (a) and inserting  
 22 “chapter 105”;

23 (3) striking paragraph (2) of subsection (b) and  
 24 striking “(1)” in the first paragraph of subsection  
 25 (b);

1           (4) striking the fourth sentence of subsection  
2       (e);

3           (5) striking “When a rail carrier is involved in  
4       the transaction, the” in the last sentence of sub-  
5       section (e) and inserting “The”;

6           (6) striking the last two sentences of subsection  
7       (d); and

8           (7) striking subsection (e).

9   **SEC. 351. RAIL CARRIER PROCEDURE FOR CONSOLIDA-**  
10                   **TION, ETC.**

11       Section 11345 is amended by—

12           (1) striking “subchapter I of” in the first sen-  
13       tence of subsection (a);

14           (2) inserting “, including comments by the Sec-  
15       retary of Transportation and the Attorney General,”  
16       before “may be filed” in the first sentence of sub-  
17       section (e)(1);

18           (3) striking the last two sentences of subsection  
19       (e)(1);

20           (4) inserting “, including comments by the Sec-  
21       retary of Transportation and the Attorney General,”  
22       before “may be filed” in the first sentence of sub-  
23       section (d)(1); and

24           (5) striking the last two sentences of subsection  
25       (d)(1).

1 **SEC. 352. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

2 Section 11347 is amended by striking “or section  
3 11346” in the first sentence.

4 **SEC. 353. AUTHORITY OVER NONCARRIER ACQUIRERS.**

5 Section 11348 is amended by—

6 (1) striking “(a)” in subsection (a);

7 (2) striking subsection (b); and

8 (3) striking all after the colon and inserting  
9 “sections 504(f) and 10764, subchapter III of chap-  
10 ter 111, and sections 11901(e) and 11909.”.

11 **SEC. 354. AUTHORITY OVER INTRASTATE TRANSPOR-**  
12 **TATION.**

13 Section 11501 is amended by—

14 (1) striking subsections (a), (e), (g) and (h) and  
15 redesignating subsections (b), (c), (d), and (f) as  
16 subsections (a), (b), (c) and (d), respectively;

17 (2) striking paragraphs (2) through (6) of sub-  
18 section (a), as redesignated;

19 (3) striking “(1)” and “subchapter I of” in  
20 subsection (a), as redesignated;

21 (4) striking “subchapter I of” in subsection (b),  
22 as redesignated;

23 (5) striking “subchapter I of” in subsection  
24 (c)(1), as redesignated;

25 (6) striking “subsection (a) of this section and”  
26 in subsection (c)(2), as redesignated; and

1           (7) striking the first sentence of subsection (d);  
 2           as redesignated, and inserting the following: “The  
 3           Transportation Board may take action under this  
 4           section only after a full hearing.”.

5   **SEC. 355. TAX DISCRIMINATION AGAINST RAIL TRANSPOR-**  
 6                           **TATION PROPERTY.**

7           Section ~~11503~~ is amended by—

- 8           (1) striking “subchapter I of” in subsection  
 9           (a)(3); and  
 10          (2) striking “subchapter I of” in subsection  
 11          (b)(4).

12   **SEC. 356. WITHHOLDING STATE AND LOCAL INCOME TAX**  
 13                           **BY CERTAIN CARRIERS.**

14          Section ~~11504~~ is amended by—

- 15          (1) striking “subchapter I of” in subsection (a);  
 16          (2) striking subsections (b) and (c) and redesignating subsection (d) as subsection (b); and  
 17          (3) striking “, motor, and motor private” and  
 18          “subsection (a) or (b) of” in subsection (b), as redesignated.  
 19          designated.

21   **SEC. 357. GENERAL AUTHORITY FOR ENFORCEMENT, INVESTIGATIONS, ETC.**  
 22                           **VESTIGATIONS, ETC.**

23          Section ~~11701~~ is amended by—

- 24          (1) striking “, broker or freight forwarder” in  
 25          the second and fourth sentences of subsection (a);

- 1           (2) striking the third sentence of subsection (a);
- 2           (3) striking the first 2 sentences of subsection
- 3           (b) and inserting the following: “A person, including
- 4           a governmental authority, may file with the Trans-
- 5           portation Board a complaint about a violation of this
- 6           part by a carrier providing transportation or service
- 7           subject to the jurisdiction of the Transportation
- 8           Board under this part. The complaint must state the
- 9           facts that are the subject of the violation.”; and
- 10          (4) striking “subchapter I of” in the last sen-
- 11          tence of subsection (b).

12 **SEC. 358. ENFORCEMENT.**

13          Section 11702 is amended by—

- 14           (1) striking “(a)” in subsection (a);
- 15           (2) striking paragraphs (4) through (6) of sub-
- 16          section (a);
- 17           (3) striking “or 10933” in paragraph (1);
- 18           (4) striking paragraph (2) and inserting the fol-
- 19          lowing:
- 20           “(2) to enforce subchapter III of chapter 113
- 21          of this title and to compel compliance with an order
- 22          of the Transportation Board under that subchapter;
- 23          and”
- 24           (5) striking “subchapter I of” in paragraph (3);

1           ~~(6) striking the semicolon at the end of para-~~  
 2           ~~graph (3) and inserting a period; and~~  
 3           ~~(7) striking subsection (b).~~

4   **SEC. 359. ATTORNEY GENERAL ENFORCEMENT.**

5           Section 11703 is amended by striking “or permit”  
 6   wherever it appears in subsection (a).

7   **SEC. 360. RIGHTS AND REMEDIES.**

8           Section 11705 is amended by—

9           ~~(1) striking “or a freight forwarder” in sub-~~  
 10          ~~section (a);~~

11          ~~(2) striking subsection (b)(1) and inserting the~~  
 12          ~~following:~~

13          ~~“(b)(1) A carrier providing transportation or service~~  
 14          ~~subject to the jurisdiction of the Transportation Board~~  
 15          ~~under chapter 105 of this title is liable to a person for~~  
 16          ~~amounts charged that exceed the applicable rate for the~~  
 17          ~~transportation or service.”;~~

18          ~~(3) striking “subparagraph I or III of” in sub-~~  
 19          ~~section (b)(2);~~

20          ~~(4) striking subsection (b)(3);~~

21          ~~(5) striking “subchapter I or III of” in the first~~  
 22          ~~sentence of subsection (c)(1);~~

23          ~~(6) striking the second sentence of subsection~~  
 24          ~~(c)(1);~~

1           (7) striking “subchapter I or III of” in the sec-  
2           ond sentence of subsection (c)(2);

3           (8) striking “subchapter I or III of” in the first  
4           sentence of subsection (d)(1); and

5           (9) striking “; or (D) if a water carrier, in  
6           which a port of call on a route operated by that ear-  
7           rier is located” and inserting “or” before “(C)” in  
8           the fourth sentence of subsection (d)(1).

9   **SEC. 361. LIMITATION ON ACTIONS.**

10          Section 11706 is amended by—

11           (1) striking subsection (a) and inserting the fol-  
12          lowing:

13          “(a) A carrier providing transportation or service  
14          subject to the jurisdiction of the Intermodal Surface  
15          Transportation Board under chapter 105 of this title must  
16          begin a civil action to recover charges for the transpor-  
17          tation or service provided by the carrier within 3 years  
18          after the claim accrues.”;

19           (2) striking the first sentence of subsection (b)  
20          and inserting “A person must begin a civil action to  
21          recover overcharges under section 11705(b)(1) of  
22          this title within 3 years after the claim accrues.”;

23           (3) striking “subchapter I or III of” in the last  
24          sentence of subsection (b);

25           (4) striking “(1)” in subsection (c);

1           (5) striking paragraph (2) of subsection (c);

2           and

3           (6) striking “(c)(1)” in the second sentence of

4           subsection (d) and inserting “(c)”.

5   **SEC. 362. LIABILITY OF COMMON CARRIERS UNDER RE-**  
 6           **CEIPTS AND BILLS OF LADING.**

7           (a) Section 11707 is amended by—

8           (1) striking “(a)(1)” in subsection (a) and in-  
 9           serting “(a)”;

10          (2) striking paragraph (2) of subsection (a);

11          (3) striking “subchapter I, II, or IV of” and  
 12          “and a freight forwarder” in the first sentence of  
 13          subsection (a), as amended;

14          (4) striking “or freight forwarder” in the sec-  
 15          ond sentence of subsection (a), as amended;

16          (5) striking “subchapter I, II, or IV” in the  
 17          second sentence of subsection (a), as amended; and  
 18          inserting “chapter 105 or subject to jurisdiction  
 19          under part B of this subtitle”;

20          (6) striking “, except in the case of a freight  
 21          forwarder,” in the third sentence of subsection (a),  
 22          as amended;

23          (7) striking “diverted under a tariff filed under  
 24          subchapter IV of chapter 107 of this title.” in the



1 third sentence of subsection (a), as amended, and in-  
 2 serting “diverted.”;

3 (8) striking “or freight forwarder” in the fourth  
 4 sentence of subsection (a);

5 (9) striking “and freight forwarder” in sub-  
 6 section (c)(1), and striking “filed with the Commis-  
 7 sion”;

8 (10) striking paragraph (3) of subsection (c)  
 9 and redesignating paragraph (4) as paragraph (3);

10 (11) striking “or freight forwarder” wherever it  
 11 appears in subsection (c); and

12 (12) striking “or freight forwarder’s” in sub-  
 13 section (c)(2).

14 (b) The index for chapter 117 is amended by striking  
 15 out the item relating to section 11707 and inserting in  
 16 lieu thereof the following:

“SEC. 11707. Liability of Carriers under receipts and bills of  
 lading.”.

17 **SEC. 363. LIABILITY WHEN PROPERTY IS DELIVERED IN**  
 18 **VIOLATION OF ROUTING INSTRUCTIONS.**

19 Section 11710 is amended by striking “subchapter I  
 20 of” in subsection (a)(1).

21 **SEC. 364. GENERAL CIVIL PENALTIES.**

22 Section 11901 is amended by:

23 (1) striking “subchapter I of” in subsection (a)  
 24 and subsection (b);

1           (2) striking subsection (e) and subsections (g)  
 2           through (l), and redesignating subsections (d)  
 3           through (f) as (e) through (e), respectively, and sub-  
 4           section (m) as (f);

5           (3) striking “11127” in subsection (d), as re-  
 6           designated;

7           (4) striking “(1)” in subsection (d), as redesign-  
 8           ated, and striking paragraph (2) of that subsection;

9           (5) striking “subchapter I of” each place it ap-  
 10          pears in subsection (e), as redesignated;

11          (6) striking “(1)” in subsection (f), as redesign-  
 12          ated, and striking paragraph (2) of that subsection;  
 13          and

14          (7) striking “subsections (a)-(f) of” in subsection (f),  
 15          as redesignated.

16   **SEC. 365. CIVIL PENALTY FOR ACCEPTING REBATES FROM**  
 17                           **COMMON CARRIER.**

18          Section 11902 is amended by striking “contained in  
 19          a tariff filed with the Commission under subchapter IV  
 20          of chapter 107 of this title”.

21   **SEC. 366. RATE, DISCRIMINATION, AND TARIFF VIOLA-**  
 22                           **TIONS.**

23          Section 11903 is amended by striking “under chapter  
 24          107 of this title” in subsection (a).

1 **SEC. 367. ADDITIONAL RATE AND DISCRIMINATION VIOLA-**  
 2 **TIONS.**

3 Section ~~11904~~ is amended by—

4 (1) striking subsections (b) through (d);

5 (2) striking “(a)(1)” in subsection (a) and in-  
 6 serting “(a)”;

7 (3) redesignating paragraphs (2) and (3) of  
 8 subsection (a) as subsections (b) and (c), respec-  
 9 tively;

10 (4) striking “(A)” and “(B)” in subsection (b),  
 11 as redesignated, and inserting “(1)” and “(2)”, re-  
 12 spectively;

13 (5) striking “subchapter I of” in subsections  
 14 (b) and (c), as redesignated; and

15 (6) striking “under chapter 107 of this title” in  
 16 subsection (b), as redesignated.

17 **SEC. 368. INTERFERENCE WITH RAILROAD CAR SUPPLY.**

18 Section ~~11907~~ is amended by striking “subchapter I  
 19 of” in subsections (a) and (b).

20 **SEC. 369. RECORD KEEPING AND REPORTING VIOLATIONS.**

21 Section ~~11909~~ is amended by—

22 (1) striking subsections (b) through (d);

23 (2) striking “subchapter I of” in subsection (a);

24 and

25 (3) striking “(a)” in subsection (a).

1 **SEC. 370. UNLAWFUL DISCLOSURE OF INFORMATION.**

2 Section ~~11910~~ is amended by—

3 (1) striking paragraphs (2) through (4) of sub-  
4 section (a);

5 (2) striking “(a)(1)” in subsection (a) and in-  
6 serting “(a)”;

7 (3) striking “(A)” and “(B)” in subsection (a)  
8 and inserting “(1) and “(2)”, respectively;

9 (4) striking “subchapter I of” in subsections  
10 (a) and (d); and

11 (5) striking “or broker” in subsection (b).

12 **SEC. 371. CONSOLIDATION, MERGER, AND ACQUISITION OF**  
13 **CONTROL.**

14 Section ~~11912~~ is amended by striking out “~~11346,~~”.

15 **SEC. 372. GENERAL CRIMINAL PENALTY.**

16 Section ~~11914~~ is amended by—

17 (1) striking subsections (b) through (d);

18 (2) striking “(a)” in subsection (a);

19 (3) striking “subchapter I of” in the first sen-  
20 tence; and

21 (4) striking “~~11321(a)~~ or” in the last sentence.

22 **SEC. 373. FINANCIAL ASSISTANCE FOR STATE PROJECTS.**

23 Section ~~22101~~ is amended by striking “subchapter I  
24 of” in the first sentence of subsection (a).

1 **SEC. 374. STATUS OF AMTRAK AND APPLICABLE LAWS.**

2 Section 24301 is amended by striking “subchapter I  
3 of” in subsection (c)(2)(B) and (d).

4 **SEC. 375. RAIL-SHIPPER TRANSPORTATION ADVISORY**  
5 **COUNCIL.**

6 (a) ESTABLISHMENT.—Chapter 103 is amended by  
7 adding at the end thereof the following:

8 **“SUBCHAPTER VI. RAIL AND SHIPPER**  
9 **TRANSPORTATION ADVISORY COUNCIL**

10 **§ 10391. Rail and Shipper Transportation Advisory Council.**

11 “(a) ESTABLISHMENT; MEMBERSHIP.—There is es-  
12 tablished the Rail-Shipper Transportation Advisory Coun-  
13 cil (hereinafter in this section referred to as the “Coun-  
14 cil”) to be composed of 15 members appointed by the  
15 Chairman of the Transportation Board, after rec-  
16 ommendation from carriers and shippers, within 60 days  
17 after the date of enactment of the Interstate Commerce  
18 Commission Sunset Act of 1995. The members of the  
19 Council shall be appointed as follows:

20 “(1) The members of the Council shall be ap-  
21 pointed from among citizens of the United States  
22 who are not regular full-time employees of the Unit-  
23 ed States and shall be selected for appointment so  
24 as to provide as nearly as practicable a broad rep-  
25 resentation of the various segments of the rail and  
26 rail shipper industry.

1           “(2) Nine of the members shall be appointed  
 2           from senior executive officers of organizations en-  
 3           gaged in the railroad and rail shipping industry;  
 4           which 9 members shall be the voting members of the  
 5           Council. Council action and Council positions shall  
 6           be determined by a majority vote of said members  
 7           or by a majority vote of a quorum thereof. A major-  
 8           ity of such voting members shall constitute a  
 9           quorum. Of such 9 voting members—

10                 “(A) at least 4 shall be from organizations  
 11                 representative of small shippers (as determined  
 12                 by the Chairman); and

13                 “(B) at least 4 shall be from organizations  
 14                 representative of small railroads (Class II or  
 15                 III).

16           “(3) The remaining 6 members of the Council  
 17           shall serve in a non-voting advisory capacity only,  
 18           but shall be entitled to participate in Council delib-  
 19           erations. Of said remaining members—

20                 “(A) 3 shall be from Class I railroads; and

21                 “(B) 3 shall be from large shipper organi-  
 22                 zations (as determined by the Chairman).

23           “(4) The Secretary of Transportation and the  
 24           members of the Transportation Board shall serve as  
 25           ex officio members of the Council. The Council shall

1 not be subject to the Federal Advisory Committee  
 2 Act. A list of the members appointed to the Council  
 3 shall be forwarded to the Chairmen and ranking  
 4 members of the Senate Committee on Commerce,  
 5 Science, and Transportation and the House Commit-  
 6 tee on Transportation and Infrastructure.

7 “(5) Each ex-officio member of the Council may  
 8 designate an alternate, who shall serve as a member  
 9 of the Council whenever the ex-officio member is un-  
 10 able to attend a meeting of the Council. Any such  
 11 designated alternate shall be selected from individ-  
 12 uals who exercise significant decision-making author-  
 13 ity in the Federal agency involved.

14 “(b) TERM OF OFFICE.—The members of the Council  
 15 shall be appointed for a term of office of three years, ex-  
 16 cept that of the members first appointed—

17 “(1) 5 members shall be appointed for terms of  
 18 1 year, and

19 “(2) 5 members shall be appointed for terms of  
 20 2 years,

21 as designated by the Chairman at the time of appoint-  
 22 ment. Any member appointed to fill a vacancy occurring  
 23 before the expiration of the term for which the member’s  
 24 predecessor was appointed shall be appointed only for the  
 25 remainder of such term. A member may serve after the

1 expiration of his term until his successor has taken office.  
2 Vacancies on the Council shall be filled in the same man-  
3 ner in which the original appointments were made. No  
4 member of the Council shall be eligible to serve in excess  
5 of two consecutive terms.

6 “(c) ELECTION AND DUTIES OF OFFICERS.—The  
7 Council Chairman and Vice Chairman and other appro-  
8 priate officers of the Council shall be elected by and from  
9 the voting members of the Council. The Council Chairman  
10 shall serve as the Council’s executive officer and shall di-  
11 rect the administration of the Council, assign officer and  
12 committee duties, and shall be responsible for issuing and  
13 communicating the reports, policy positions and state-  
14 ments of the Council. In the event that the Council Chair-  
15 man is unable to serve, the Vice Chairman shall act as  
16 Council Chairman.

17 “(d) EXPENSES.—The members of the Council shall  
18 receive no compensation for their services as such, but  
19 upon request by the Council Chairman, based on a show-  
20 ing of significant economic burden, the Secretary of  
21 Transportation or the Chairman may provide reasonable  
22 and necessary travel expenses for such individual Council  
23 members from Department or Transportation Board fund-  
24 ing sources in order to foster balanced representation on  
25 the Council. Upon request by the Council Chairman, the



1 Secretary or Chairman may but is not required to pay the  
2 reasonable and necessary expenses incurred by the Council  
3 in connection with the coordination of Council activities,  
4 announcement and reporting of meetings, and preparation  
5 of such Council documents as are required or permitted  
6 by this Act. However, prior to making any funding re-  
7 quests the Council Chairman shall undertake best efforts  
8 to fund such activities privately unless he or she reason-  
9 ably feels such private funding would create irreconcilable  
10 conflicts or the appearance thereof, or is otherwise imprac-  
11 tical. The Council Chairman shall not request funding  
12 from any federal agency unless he or she provides written  
13 justification as to why private funding would create such  
14 conflict or appearance, or is otherwise impractical. To en-  
15 able the Council to carry out its functions—

16           “(1) the Council Chairman may request directly  
17           from any Federal department or agency such per-  
18           sonnel, information, services, or facilities, on a com-  
19           pensated or uncompensated basis, as he or she de-  
20           termines necessary to carry out the functions of the  
21           Council;

22           “(2) each Federal department or agency may,  
23           in their discretion, furnish the Council with such in-  
24           formation, services, and facilities as the Council

1 Chairman may request to the extent permitted by  
2 law and within the limits of available funds; and

3 ~~“(3) Federal agencies and departments may, in~~  
4 ~~their discretion, detail to temporary duty with the~~  
5 ~~Council, such personnel as the Council Chairman~~  
6 ~~may request for carrying out the functions of the~~  
7 ~~Council, each such detail to be without loss of se-~~  
8 ~~niority, pay, or other employee status.~~

9 ~~“(e) MEETINGS.—The Council shall meet at least~~  
10 ~~semi-annually and shall hold such other meetings as~~  
11 ~~deemed prudent by and at the call of the Council Chair-~~  
12 ~~man. Appropriate federal facilities, where available, may~~  
13 ~~be used for such meetings. Whenever the Council, or a~~  
14 ~~committee of the Council, considers matters that affect the~~  
15 ~~jurisdictional interests of Federal agencies that are not~~  
16 ~~represented on the Council, the Council Chairman may in-~~  
17 ~~vite the heads of such agencies, or their alternates, to par-~~  
18 ~~ticipate in the deliberations of the Council.~~

19 ~~“(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—~~  
20 ~~The Council shall advise the Secretary, Chairman, and rel-~~  
21 ~~evant Congressional transportation policy oversight com-~~  
22 ~~mittees with respect to rail transportation policy issues it~~  
23 ~~deems significant, with particular attention to issues of~~  
24 ~~importance to small shippers and small railroads, includ-~~  
25 ~~ing car supply, rates, competition, and effective procedures~~

1 for addressing legitimate shipper and other claims. To the  
2 extent the Council addresses specific grain car issues, it  
3 shall coordinate such activities with the Grain Car Coun-  
4 cil. The Secretary and Chairman shall work in cooperation  
5 with the Council to provide research, technical and other  
6 reasonable support in developing any documents provided  
7 for hereby. The Council shall endeavor to develop within  
8 the private sector mechanisms to prevent or identify and  
9 effectively address obstacles to the most effective and effi-  
10 cient transportation system practicable. The Council shall  
11 prepare an annual report concerning its activities and the  
12 results of Council efforts to resolve industry issues within  
13 the Council structure in lieu of seeking regulatory or legis-  
14 lative relief, and propose whatever regulatory or legislative  
15 relief it deems appropriate in the event such efforts are  
16 unsuccessful. The Council shall include therein such rec-  
17 ommendations as it deems appropriate with respect to the  
18 performance of the Secretary and Chairman under this  
19 chapter, and with respect to the operation and effective-  
20 ness of meetings and industry developments relating to the  
21 Council's efforts, and such other information as it deems  
22 appropriate. Such annual reports shall be reviewed by the  
23 Secretary and Chairman, and shall include the Secretary's  
24 and Chairman's views or comments relating to the accu-  
25 racy of information therein, Council efforts and reason-

1 ableness of Council positions and actions and any other  
 2 aspects of the Council's work as they may deem appro-  
 3 priate. The Council may prepare other reports or develop  
 4 policy statements as the Council deems appropriate. Each  
 5 annual report shall cover a fiscal year and shall be submit-  
 6 ted to the Secretary and Chairman on or before the thirty-  
 7 first day of December following the close of the fiscal year.  
 8 Other such reports and statements may be communicated  
 9 as the Council deems appropriate.”.

10 (b) CONFORMING AMENDMENT.—The table of sub-  
 11 chapters for chapter 103 is amended by adding at the end  
 12 thereof the following:

“SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION  
 ADVISORY COUNCIL

“10391. Rail and shipper advisory council.”.

13 **TITLE IV—MOTOR CARRIER,**  
 14 **WATER CARRIER, BROKER,**  
 15 **AND FREIGHT FORWARDER**  
 16 **TRANSPORTATION**

17 **Subtitle A—Addition of Part B**

18 **SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE**  
 19 **49, UNITED STATES CODE.**

20 Subtitle IV is amended by inserting after chapter 119  
 21 the following:

1 “PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND  
 2 FREIGHT FORWARDERS

3 **“CHAPTER 131—GENERAL PROVISIONS**

4 **“§ 13101. Transportation policy.**

5 “(a) Except where policy has an impact on rail car-  
 6 riers, in which case the principles of section 10101a of  
 7 this title shall govern, to ensure the development, coordi-  
 8 nation, and preservation of a transportation system that  
 9 meets the transportation needs of the United States, in-  
 10 cluding the United States Postal Service and national de-  
 11 fense, it is the policy of the United States Government  
 12 to provide for the impartial regulation of the modes of  
 13 transportation ; and—

14 “(1) in regulating those modes—

15 “(A) to recognize and preserve the inher-  
 16 ent advantage of each mode of transportation;

17 “(B) to promote safe, adequate, economi-  
 18 cal, and efficient transportation;

19 “(C) to encourage sound economic condi-  
 20 tions in transportation, including sound eco-  
 21 nomic conditions among carriers;

22 “(D) to encourage the establishment and  
 23 maintenance of reasonable rates for transpor-  
 24 tation, without unreasonable discrimination or  
 25 unfair or destructive competitive practices;

1           ~~“(E) to cooperate with each State and the~~  
2           ~~officials of each State on transportation mat-~~  
3           ~~ters; and~~

4           ~~“(F) to encourage fair wages and working~~  
5           ~~conditions in the transportation industry;~~

6           ~~“(2) in regulating transportation by motor ear-~~  
7           ~~rier, to promote competitive and efficient transpor-~~  
8           ~~tation services in order to (A) encourage fair com-~~  
9           ~~petition, and reasonable rates for transportation by~~  
10          ~~motor carriers of property; (B) promote Federal reg-~~  
11          ~~ulatory efficiency in the motor carrier transportation~~  
12          ~~system and to require fair and expeditious regu-~~  
13          ~~latory decisions when regulation is required; (C)~~  
14          ~~meet the needs of shippers, receivers, passengers,~~  
15          ~~and consumers; (D) allow a variety of quality and~~  
16          ~~price options to meet changing market demands and~~  
17          ~~the diverse requirements of the shipping and travel-~~  
18          ~~ing public; (E) allow the most productive use of~~  
19          ~~equipment and energy resources; (F) enable efficient~~  
20          ~~and well-managed carriers to earn adequate profits,~~  
21          ~~attract capital, and maintain fair wages and working~~  
22          ~~conditions; (G) provide and maintain service to small~~  
23          ~~communities and small shippers and intrastate bus~~  
24          ~~services; (H) provide and maintain commuter bus~~  
25          ~~operations; (I) improve and maintain a sound, safe,~~

1 and competitive privately owned motor carrier sys-  
 2 tem; (J) promote greater participation by minorities  
 3 in the motor carrier system; and (K) promote inter-  
 4 modal transportation; and

5 “(3) in regulating transportation by motor ear-  
 6 rier of passengers (A) to cooperate with the States  
 7 on transportation matters for the purpose of encour-  
 8 aging the States to exercise intrastate regulatory ju-  
 9 risdiction in accordance with the objectives of this  
 10 part; (B) to provide Federal procedures which en-  
 11 sure that intrastate regulation is exercised in accord-  
 12 ance with this part; and (C) to ensure that Federal  
 13 reform initiatives enacted by section 31138 of this  
 14 title and the Bus Regulatory Reform Act of 1995 of  
 15 1982 are not nullified by State regulatory actions.

16 “(b) This part shall be administered and enforced to  
 17 carry out the policy of this section.

18 **“§ 13102. Definitions.**

19 “In this part—

20 “(1) ‘broker’ means a person, other than a  
 21 motor carrier or an employee or agent of a motor  
 22 carrier, that as a principal or agent sells, offers for  
 23 sale, negotiates for, or holds itself out by solicitation,  
 24 advertisement, or otherwise as selling, providing, or

1       arranging for, transportation by motor carrier for  
2       compensation.

3           ~~“(2) ‘carrier’ means a motor carrier, a water~~  
4       ~~carrier, and a freight forwarder, and, for purposes of~~  
5       ~~sections 13902, 13905, and 13906, the term in-~~  
6       ~~cludes foreign motor carriers and foreign motor pri-~~  
7       ~~vate carriers;~~

8           ~~“(3) ‘contract carriage’ means—~~

9           ~~“(A) for transportation provided before the~~  
10       ~~date of enactment of the Interstate Commerce~~  
11       ~~Commission Sunset Act of 1995, service pro-~~  
12       ~~vided pursuant to a permit issued under former~~  
13       ~~section 10923 of this subtitle; and~~

14          ~~“(B) for transportation provided on or~~  
15       ~~after that date, service provided under an~~  
16       ~~agreement entered into under section 14101(b)~~  
17       ~~of this part;~~

18          ~~“(4) ‘control’, when referring to a relationship~~  
19       ~~between persons, includes actual control, legal con-~~  
20       ~~trol, and the power to exercise control, through or~~  
21       ~~by (A) common directors, officers, stockholders, a~~  
22       ~~voting trust, or a holding or investment company, or~~  
23       ~~(B) any other means;~~



1           “(5) ‘foreign motor carrier’ means a person (in-  
2           cluding a motor carrier of property but excluding a  
3           motor private carrier)—

4           “(A)(i) which is domiciled in a contiguous  
5           foreign country; or

6           “(ii) which is owned or controlled by  
7           persons of a contiguous foreign country  
8           and is not domiciled in the United States;  
9           and

10          “(B) in the case of a person which is not  
11          a motor carrier of property, which provides  
12          interstate transportation of property by motor  
13          vehicle under an agreement or contract entered  
14          into with a motor carrier of property (other  
15          than a motor private carrier or a motor carrier  
16          of property described in subparagraph (A));

17          “(6) ‘foreign motor private carrier’ means a  
18          person (including a motor private carrier but exclud-  
19          ing a motor carrier of property)—

20          “(A)(i) which is domiciled in a contiguous  
21          foreign country; or

22          “(ii) which is owned or controlled by  
23          persons of a contiguous foreign country  
24          and is not domiciled in the United States;  
25          and

1           “(B) in the case of a person which is not  
2           a motor private carrier, which provides inter-  
3           state transportation of property by motor vehi-  
4           cle under an agreement or contract entered into  
5           with a person (other than a motor carrier of  
6           property or a motor private carrier described in  
7           subparagraph (A));

8           “(7) ‘freight forwarder’ means a person holding  
9           itself out to the general public (other than as a pipe-  
10          line, rail, motor, or water carrier) to provide trans-  
11          portation of property for compensation and in the  
12          ordinary course of its business—

13          “(A) assembles and consolidates, or pro-  
14          vides for assembling and consolidating, ship-  
15          ments and performs or provides for break-bulk  
16          and distribution operations of the shipments;

17          “(B) assumes responsibility for the trans-  
18          portation from the place of receipt to the place  
19          of destination; and

20          “(C) uses for any part of the transpor-  
21          tation a carrier subject to jurisdiction under  
22          part A or part B of this subtitle; but the term  
23          does not include a person using transportation  
24          of an air carrier subject to part A of subtitle  
25          VII of this title;

1           “(8) ‘highway’ means a road, highway, street,  
2           and way in a State;

3           “(9) ‘household goods’ means—

4                 “(A) personal effects and property used or  
5                 to be used in a dwelling when a part of the  
6                 equipment or supply of such dwelling and simi-  
7                 lar property, whether the transportation is—

8                         “(i) requested and paid for by the  
9                         householder, including transportation of  
10                        property from a factory or store when the  
11                        property is purchased by the householder  
12                        with intent to use in his dwelling; or

13                       “(ii) arranged and paid for by another  
14                       party;

15                 “(B) furniture, fixtures, equipment, and  
16                 the property of stores, offices, museums, insti-  
17                 tutions, hospitals or other establishments when  
18                 a part of the stock, equipment, or supply of  
19                 such stores, offices, museums, institutions, hos-  
20                 pitals, or other establishments and similar prop-  
21                 erty; except that this subparagraph shall not be  
22                 construed to include the stock-in-trade of any  
23                 establishment, whether consignor or consignee,  
24                 other than used furniture and used fixtures, ex-  
25                 cept when transported as incidental to moving

1 of the establishment, or a portion thereof, from  
2 one location to another; and

3 “(C) articles, including objects of art, dis-  
4 plays, and exhibits, which because of their un-  
5 usual nature or value require the specialized  
6 handling and equipment usually employed in  
7 moving household goods and similar articles; ex-  
8 cept that this subparagraph shall not be con-  
9 strued to include any article, whether crated or  
10 uncrated, which does not, because of its un-  
11 usual nature or value, require the specialized  
12 handling and equipment usually employed in  
13 moving household goods;

14 “(10) ‘household goods freight forwarder’  
15 means a freight forwarder of one or more of the  
16 following items: household goods, unaccom-  
17 panied baggage, or used automobiles;

18 “(11) ‘motor carrier’ means a person pro-  
19 viding motor vehicle transportation for com-  
20 pensation;

21 “(12) ‘motor private carrier’ means a per-  
22 son, other than a motor carrier, transporting  
23 property by motor vehicle when—

24 “(A) the transportation is as provided  
25 in section 13501 of this title;

1           “(B) the person is the owner, lessee,  
2           or bailee of the property being transported;  
3           and

4           “(C) the property is being transported  
5           for sale, lease, rent, or bailment, or to fur-  
6           ther a commercial enterprise;

7           “(13) ‘motor vehicle’ means a vehicle, ma-  
8           chine, tractor, trailer, or semitrailer propelled  
9           or drawn by mechanical power and used on a  
10          highway in transportation, or a combination de-  
11          termined by the Secretary, but does not include  
12          a vehicle, locomotive, or car operated only on a  
13          rail, or a trolley bus operated by electric power  
14          from a fixed overhead wire, and providing local  
15          passenger transportation similar to street-rail-  
16          way service;

17          “(14) ‘non-contiguous domestic trade’  
18          means motor-water transportation subject to ju-  
19          risdiction under chapter 135 of this title involv-  
20          ing traffic originating in or destined to Alaska,  
21          Hawaii, or a territory or possession of the Unit-  
22          ed States;

23          “(15) ‘person’, in addition to its meaning  
24          under section 1 of title 1, includes a trustee, re-

1           ceiver, assignee, or personal representative of a  
2           person;

3           “(16) ‘State’ means a State of the United  
4           States and the District of Columbia;

5           “(17) ‘transportation’ includes—

6           “(A) a motor vehicle, vessel, ware-  
7           house, wharf, pier, dock, yard, property,  
8           facility, instrumentality, or equipment of  
9           any kind related to the movement of pas-  
10          sengers or property, or both, regardless of  
11          ownership or an agreement concerning use;  
12          and

13          “(B) services related to that move-  
14          ment, including receipt, delivery, elevation,  
15          transfer in transit, refrigeration, icing,  
16          ventilation, storage, handling, and inter-  
17          change of passengers and property;

18          “(18) ‘United States’ means the States of  
19          the United States and the District of Columbia;

20          “(19) ‘vessel’ means a watercraft or other  
21          artificial contrivance that is used, is capable of  
22          being used, or is intended to be used, as a  
23          means of transportation by water; and

24          “(20) ‘water carrier’ means a person pro-  
25          viding water transportation for compensation.

1 ~~“§ 13103. Remedies are cumulative.~~

2 ~~“Except as otherwise provided in this part, the rem-~~  
 3 ~~edies provided under this part are in addition to remedies~~  
 4 ~~existing under another law or at common law.~~

5 **~~“CHAPTER 133—ADMINISTRATIVE PROVISIONS~~**

6 **~~“§ 13301. Powers.~~**

7 ~~“(a) Except as otherwise specified, the Secretary of~~  
 8 ~~Transportation shall carry out this part. Enumeration of~~  
 9 ~~a power of the Secretary in this part does not exclude an-~~  
 10 ~~other power the Secretary may have in carrying out this~~  
 11 ~~part. The Secretary may prescribe regulations in carrying~~  
 12 ~~out this part.~~

13 ~~“(b) The Secretary may obtain from carriers provid-~~  
 14 ~~ing, and brokers for, transportation and service subject~~  
 15 ~~to this part, and from persons controlling, controlled by,~~  
 16 ~~or under common control with those carriers or brokers~~  
 17 ~~to the extent that the business of that person is related~~  
 18 ~~to the management of the business of that carrier or~~  
 19 ~~broker, information the Secretary decides is necessary to~~  
 20 ~~carry out this part.~~

21 ~~“(c)(1) The Secretary may subpoena witnesses and~~  
 22 ~~records related to a proceeding under this part from any~~  
 23 ~~place in the United States, to the designated place of the~~  
 24 ~~proceeding. If a witness disobeys a subpoena, the Secretary,~~  
 25 ~~or a party to a proceeding under this part, may petition~~  
 26 ~~a court of the United States to enforce that subpoena.~~

1           ~~“(2) The district courts of the United States~~  
2           ~~have jurisdiction to enforce a subpoena issued under~~  
3           ~~this section. Trial is in the district in which the pro-~~  
4           ~~ceeding is conducted. The court may punish a re-~~  
5           ~~fusal to obey a subpoena as a contempt of court.~~

6           ~~“(d)(1) In a proceeding under this part, the Secretary~~  
7           ~~may take the testimony of a witness by deposition and~~  
8           ~~may order the witness to produce records. A party to a~~  
9           ~~proceeding pending under this part may take the testi-~~  
10          ~~mony of a witness by deposition and may require the wit-~~  
11          ~~ness to produce records at any time after a proceeding~~  
12          ~~is at issue on petition and answer.~~

13          ~~“(2) If a witness fails to be deposed or to~~  
14          ~~produce records under paragraph (1) of this sub-~~  
15          ~~section, the Secretary may subpoena the witness to~~  
16          ~~take a deposition, produce the records, or both.~~

17          ~~“(3) A deposition may be taken before a judge~~  
18          ~~of a court of the United States, a United States~~  
19          ~~magistrate judge, a clerk of a district court, or a~~  
20          ~~chancellor, justice, or judge of a supreme or superior~~  
21          ~~court, mayor or chief magistrate of a city, judge of~~  
22          ~~a county court, or court of common pleas of any~~  
23          ~~State, or a notary public who is not counsel or attor-~~  
24          ~~ney of a party or interested in the proceeding.~~



1           “(4) Before taking a deposition, reasonable no-  
2       tice must be given in writing by the party or the at-  
3       torney of that party proposing to take a deposition  
4       to the opposing party or the attorney of record of  
5       that party, whoever is nearest. The notice shall state  
6       the name of the witness and the time and place of  
7       taking the deposition.

8           “(5) The testimony of a person deposed under  
9       this subsection shall be taken under oath. The per-  
10      son taking the deposition shall prepare, or cause to  
11      be prepared, a transcript of the testimony taken.  
12      The transcript shall be subscribed by the deponent.

13          “(6) The testimony of a witness who is in a for-  
14      eign country may be taken by deposition before an  
15      officer or person designated by the Secretary or  
16      agreed on by the parties by written stipulation filed  
17      with the Secretary. A deposition shall be filed with  
18      the Secretary promptly.

19          “(e) Each witness summoned before the Secretary or  
20      whose deposition is taken under this section and the indi-  
21      vidual taking the deposition are entitled to the same fees  
22      and mileage paid for those services in the courts of the  
23      United States.

24          “(f) For those provisions of this part that are speci-  
25      fied to be carried out by the Intermodal Surface Transpor-

1 tation Board, the Transportation Board shall have the  
2 same powers as the Secretary has under this section.

3 **“§ 13302. Intervention.**

4 “Under regulations of the Secretary of Transpor-  
5 tation, reasonable notice of, and an opportunity to inter-  
6 vene and participate in, a proceeding under this part relat-  
7 ed to transportation subject to jurisdiction under sub-  
8 chapter I of chapter 135 of this title shall be given to in-  
9 terested persons.

10 **“§ 13303. Service of notice in proceedings under this part.**

11 “(a) A motor carrier, a broker, or a freight forwarder  
12 providing transportation or service subject to jurisdiction  
13 under chapter 135 of this title shall designate in writing  
14 an agent by name and post office address on whom service  
15 of notices in a proceeding before, and of actions of, the  
16 Secretary may be made.

17 “(b) A notice to a motor carrier, broker, or freight  
18 forwarder is served personally or by mail on the motor  
19 carrier, broker, or freight forwarder or on its designated  
20 agent. Service by mail on the designated agent is made  
21 at the address filed for the agent. When notice is given  
22 by mail, the date of mailing is considered to be the time  
23 when the notice is served. If a motor carrier, broker, or  
24 freight forwarder does not have a designated agent, service

1 may be made by posting a copy of the notice at the head-  
 2 quarters of the Department of Transportation.

3 **“§ 13304. Service of process in court proceedings.**

4       “(a) A motor carrier or broker providing transpor-  
 5 tation subject to jurisdiction under chapter 135 of this  
 6 title, including a motor carrier or broker operating within  
 7 the United States while providing transportation between  
 8 places in a foreign country or between a place in one for-  
 9 eign country and a place in another foreign country, shall  
 10 designate an agent in each State in which it operates by  
 11 name and post office address on whom process issued by  
 12 a court with subject matter jurisdiction may be served in  
 13 an action brought against that carrier or broker. The des-  
 14 ignation shall be in writing and filed with the Department  
 15 of Transportation and each State may require that an ad-  
 16 ditional designation be filed with it. If a designation under  
 17 this subsection is not made, service may be made on any  
 18 agent of the carrier or broker within that State.

19       “(b) A designation under this section may be changed  
 20 at any time in the same manner as originally made.

21 **“CHAPTER 135—JURISDICTION**

22 **“SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION**

23 **“§ 13501. General jurisdiction.**

24       “‘The Secretary of Transportation and the Intermodal  
 25 Surface Transportation Board have jurisdiction, as speci-

1 fied in this part, over transportation by motor carrier and  
 2 the procurement of that transportation, to the extent that  
 3 passengers, property, or both, are transported by motor  
 4 carrier—

5 “(1) between a place in—

6 “(A) a State and a place in another State;

7 “(B) a State and another place in the  
 8 same State through another State;

9 “(C) the United States and a place in a  
 10 territory or possession of the United States to  
 11 the extent the transportation is in the United  
 12 States;

13 “(D) the United States and another place  
 14 in the United States through a foreign country  
 15 to the extent the transportation is in the United  
 16 States; or

17 “(E) the United States and a place in a  
 18 foreign country to the extent the transportation  
 19 is in the United States; and

20 “(2) in a reservation under the exclusive juris-  
 21 diction of the United States or on a public highway.

22 **“§ 13502. Exempt transportation between Alaska and other**  
 23 **States.**

24 “To the extent that transportation by a motor carrier  
 25 between a place in Alaska and a place in another State

1 under section 13501 of this title is provided in a foreign  
2 country—

3 “(1) neither the Secretary of Transportation  
4 nor the Intermodal Surface Transportation Board  
5 has jurisdiction to impose a requirement over con-  
6 duct of the motor carrier in the foreign country con-  
7 flicting with a requirement of that country; but

8 “(2) the motor carrier, as a condition of provid-  
9 ing transportation in the United States, shall com-  
10 ply, with respect to all transportation provided be-  
11 tween Alaska and the other State, with the require-  
12 ments of this part related to rates and practices ap-  
13 plicable to the transportation.

14 **“§ 13503. Exempt motor vehicle transportation in terminal**  
15 **areas.**

16 “(a)(1) Neither the Secretary of Transportation nor  
17 the Intermodal Surface Transportation Board has juris-  
18 diction under this subchapter over transportation by  
19 motor vehicle provided in a terminal area when the trans-  
20 portation—

21 “(A) is a transfer, collection, or delivery;

22 “(B) is provided by—

23 “(i) a rail carrier subject to jurisdic-  
24 tion under chapter 105 of this title;

1                   “(ii) a water carrier subject to juris-  
 2                   diction under subchapter II of this chapter;

3                   or

4                   “(iii) a freight forwarder subject to  
 5                   jurisdiction under subchapter III of this  
 6                   chapter; and

7                   “(C) is incidental to transportation or service  
 8                   provided by the carrier or freight forwarder that is  
 9                   subject to jurisdiction under chapter 105 of this title  
 10                  or under subchapter II or III of this chapter.

11                  “(2) Transportation exempt from jurisdiction under  
 12                  paragraph (1) of this subsection is subject to jurisdiction  
 13                  under chapter 105 of this title when provided by such a  
 14                  rail carrier, under subchapter II of this chapter when pro-  
 15                  vided by such a water carrier, and under subchapter III  
 16                  of this chapter when provided by such a freight forwarder.

17                  “(b)(1) Except to the extent provided by paragraph  
 18                  (2) of this subsection, neither the Secretary nor the Trans-  
 19                  portation Board has jurisdiction under this subchapter  
 20                  over transportation by motor vehicle provided in a termi-  
 21                  nal area when the transportation—

22                         “(A) is a transfer, collection, or delivery; and

23                         “(B) is provided by a person as an agent or  
 24                         under other arrangement for—

1           “(i) a rail carrier subject to jurisdiction  
2           under chapter 105 of this title;

3           “(ii) a motor carrier subject to jurisdiction  
4           under this subchapter;

5           “(iii) a water carrier subject to jurisdiction  
6           under subchapter II of this chapter; or

7           “(iv) a freight forwarder subject to juris-  
8           diction under subchapter III of this chapter.

9           “(2) Transportation exempt from jurisdiction  
10          under paragraph (1) of this subsection is considered  
11          transportation provided by the carrier or service pro-  
12          vided by the freight forwarder for whom the trans-  
13          portation was provided and is subject to jurisdiction  
14          under chapter 105 of this title when provided for  
15          such a rail carrier; under this subchapter when pro-  
16          vided for such a motor carrier; under subchapter II  
17          of this chapter when provided for such a water ear-  
18          rier; and under subchapter III of this chapter when  
19          provided for such a freight forwarder.

20       **“§ 13504. Exempt motor carrier transportation entirely in one**  
21               **State.**

22       “Neither the Secretary of Transportation nor the  
23       Intermodal Surface Transportation Board has jurisdiction  
24       under this subchapter over transportation, except trans-  
25       portation of household goods, by a motor carrier operating

1 solely within the State of Hawaii. The State of Hawaii  
 2 may regulate transportation exempt from jurisdiction  
 3 under this section and, to the extent provided by a motor  
 4 carrier operating solely within the State of Hawaii, trans-  
 5 portation exempt under section 13503 of this title.

6 “SUBCHAPTER II—WATER CARRIER TRANSPORTATION

7 **“§ 13521. General jurisdiction.**

8 “The Transportation Board has jurisdiction over  
 9 transportation insofar as water carriers are concerned—

10 “(1) by water carrier between a place in a State  
 11 and a place in another State, even if part of the  
 12 transportation is outside the United States;

13 “(2) by water carrier and motor carrier from a  
 14 place in a State to a place in another State, except  
 15 that if part of the transportation is outside the Unit-  
 16 ed States, the Secretary only has jurisdiction over  
 17 that part of the transportation provided—

18 “(A) by motor carrier that is in the United  
 19 States; and

20 “(B) by water carrier that is from a place  
 21 in the United States to another place in the  
 22 United States; and

23 “(3) by water carrier or by water carrier and  
 24 motor carrier between a place in the United States



1       and a place outside the United States, to the extent  
2       that—

3               “(A) when the transportation is by motor  
4       carrier, the transportation is provided in the  
5       United States;

6               “(B) when the transportation is by water  
7       carrier to a place outside the United States, the  
8       transportation is provided by water carrier from  
9       a place in the United States to another place in  
10      the United States before transshipment from a  
11      place in the United States to a place outside  
12      the United States; and

13              “(C) when the transportation is by water  
14      carrier from a place outside the United States,  
15      the transportation is provided by water carrier  
16      from a place in the United States to another  
17      place in the United States after transshipment  
18      to a place in the United States from a place  
19      outside the United States.

20      “SUBCHAPTER III—FREIGHT FORWARDER SERVICE

21      “§ 13531. **General jurisdiction.**

22              “(a) The Secretary of Transportation and the Inter-  
23      modal Surface Transportation Board have jurisdiction, as  
24      specified in this part, over service that a freight forwarder  
25      undertakes to provide, or is authorized or required under

1 this part to provide, to the extent transportation is pro-  
 2 vided in the United States and is between—

3           “(1) a place in a State and a place in another  
 4 State, even if part of the transportation is outside  
 5 the United States;

6           “(2) a place in a State and another place in the  
 7 same State through a place outside the State; or

8           “(3) a place in the United States and a place  
 9 outside the United States.

10          “(b) Neither the Secretary nor the Transportation  
 11 Board has jurisdiction under subsection (a) of this section  
 12 over service undertaken by a freight forwarder using  
 13 transportation of an air carrier subject to part A of sub-  
 14 title VII of this title.

15          “SUBCHAPTER IV—AUTHORITY TO EXEMPT

16 **“§ 13541. Authority to exempt transportation or services.**

17          “(a) In any matter subject to jurisdiction under this  
 18 chapter, the Secretary of Transportation or the Inter-  
 19 modal Surface Transportation Board, as applicable, shall  
 20 exempt a person, class of persons, or a transaction or serv-  
 21 ice from the application of a provision of this title, or use  
 22 this exemption authority to modify a provision of this title,  
 23 when the Secretary or Transportation Board finds that  
 24 the application of that provision in whole or in part—

1           ~~“(1) is not necessary to carry out the transpor-~~  
2           ~~tation policy of section 13101 of this title; and~~

3           ~~“(2) either (A) the transaction or service is of~~  
4           ~~limited scope; or (B) the application of a provision~~  
5           ~~of this title is not needed to protect shippers from~~  
6           ~~the abuse of market power.~~

7   In a proceeding that affects the transportation of house-  
8   hold goods described in section 13102(9)(A), the Secretary  
9   or the Transportation Board shall also consider whether  
10  the exemption will be consistent with the transportation  
11  policy set forth in section 13101 of this title and will not  
12  be detrimental to the interests of individual shippers.

13       ~~“(b) The Secretary or Transportation Board, as ap-~~  
14       ~~plicable, may, where appropriate, begin a proceeding~~  
15       ~~under this section on the Secretary’s or Transportation~~  
16       ~~Board’s own initiative or on application by an interested~~  
17       ~~party.~~

18       ~~“(c) The Secretary or Transportation Board, as ap-~~  
19       ~~plicable, may specify the period of time during which an~~  
20       ~~exemption granted under this section is effective.~~

21       ~~“(d) The Secretary or Transportation Board, as ap-~~  
22       ~~plicable, may revoke an exemption, to the extent specified,~~  
23       ~~on finding that application of a provision of this title to~~  
24       ~~the person, class, or transportation is necessary to carry~~  
25       ~~out the transportation policy of section 13101 of this title.~~

1       “(e) This exemption authority may not be used to re-  
 2 lieve a person (except a person that would have been cov-  
 3 ered by a statutory exemption under subchapter II or IV  
 4 of chapter 105 of this title that was repealed by the Inter-  
 5 state Commerce Commission Sunset Act of 1995) from  
 6 the application of, and compliance with, any law, rule, reg-  
 7 ulation, standard, or order pertaining to cargo loss and  
 8 damage; insurance; or safety fitness.

9       **“CHAPTER 137—RATES AND THROUGH ROUTES**

10       **“§ 13701. Requirements for reasonable rates, classifications,**  
 11                       **through routes, rules, and practices for certain**  
 12                       **transportation.**

13       “(a)(1) A rate, classification, rule, or practice related  
 14 to transportation or service provided by a carrier subject  
 15 to jurisdiction under subchapters I or III of chapter 135  
 16 of this title for transportation or service involving—

17                       “(i) a movement of household goods de-  
 18 scribed in section 13102(9)(A)(i) of this title;  
 19 or

20                       “(ii) a joint rate for a through movement  
 21 with a water carrier in non-contiguous domestic  
 22 trade;  
 23 must be reasonable.

1       “(2) Through routes and divisions of joint rates for  
 2 such transportation or service as described in paragraph  
 3 (1)(i) or (ii) must be reasonable.

4       “(b) When the Intermodal Surface Transportation  
 5 Board finds it necessary to stop or prevent a violation of  
 6 subsection (a), the Transportation Board shall prescribe  
 7 the rate, classification, rule, practice, through route, or di-  
 8 vision of joint rates to be applied for such transportation  
 9 or service.

10   **“§ 13702. Tariff requirement for certain transportation.**

11       “(a) A carrier subject to jurisdiction under sub-  
 12 chapters I or III of chapter 135 of this title may provide  
 13 transportation or service that is

14               “(1) under a joint rate for a through movement  
 15       in non-contiguous domestic trade, or

16               “(2) for movement of household goods described  
 17       in section 13102(9)(A)(i) of this title,

18 only if the rate for such transportation or service is con-  
 19 tained in a tariff that is in effect under this section. A  
 20 rate contained in a tariff shall be stated in money of the  
 21 United States. The carrier may not charge or receive a  
 22 different compensation for that transportation or service  
 23 than the rate specified in the tariff whether by returning  
 24 a part of that rate to a person, giving a person a privilege,

1 allowing the use of a facility that affects the value of that  
 2 transportation or service; or another device.

3       ~~“(b)(1) A carrier providing transportation or service~~  
 4 ~~described in paragraph (1) of subsection (a) shall publish~~  
 5 ~~and file with the Intermodal Surface Transportation~~  
 6 ~~Board tariffs containing the rates established for such~~  
 7 ~~transportation or service. The Transportation Board may~~  
 8 ~~prescribe other information that carriers shall include in~~  
 9 ~~such tariffs.~~

10       ~~“(2) Carriers that publish tariffs under this sub-~~  
 11 ~~section shall keep them open for public inspection.~~

12       ~~“(e) The Transportation Board shall prescribe the~~  
 13 ~~form and manner of publishing, filing, and keeping tariffs~~  
 14 ~~open for public inspection under subsection (b). The~~  
 15 ~~Transportation Board may prescribe specific charges to~~  
 16 ~~be identified in a tariff published by a carrier, but those~~  
 17 ~~tariffs must identify plainly—~~

18               ~~“(1) the carriers that are parties to it;~~

19               ~~“(2) the places between which property will be~~  
 20 ~~transported;~~

21               ~~“(3) terminal charges if a carrier providing~~  
 22 ~~transportation or service subject to jurisdiction~~  
 23 ~~under subchapter III of chapter 135 of this title;~~

24               ~~“(4) privileges given and facilities allowed; and~~

1           ~~“(5) any rules that change, affect, or determine~~  
2           ~~any part of the published rate.~~

3           ~~“(d) The Transportation Board may permit carriers~~  
4           ~~to change rates, classifications, rules, and practices with-~~  
5           ~~out filing complete tariffs that cover matter that is not~~  
6           ~~being changed when the Transportation Board finds that~~  
7           ~~action to be consistent with the public interest. Those car-~~  
8           ~~riers may either—~~

9           ~~“(1) publish new tariffs that incorporate~~  
10          ~~changes, or~~

11          ~~“(2) plainly indicate the proposed changes in~~  
12          ~~the tariffs then in effect and kept open for public in-~~  
13          ~~spection.~~

14          ~~“(e) The Transportation Board may reject a tariff~~  
15          ~~submitted to it by a carrier under subsection (b) if that~~  
16          ~~tariff violates this section or regulation of the Transpor-~~  
17          ~~tation Board carrying out this section.~~

18          ~~“(f)(1) A carrier providing transportation described~~  
19          ~~in subsection (a)(2) shall maintain rates and related rules~~  
20          ~~and practices in a published tariff. The tariff must be~~  
21          ~~available for inspection by the Transportation Board and~~  
22          ~~by shippers, upon reasonable request, at the offices of the~~  
23          ~~carrier and of each tariff publishing agent of the carrier.~~

24          ~~“(2) A carrier that maintains a tariff and makes it~~  
25          ~~available for inspection as provided in paragraph (1) may~~

1 not enforce the provisions of the tariff unless the carrier  
2 has given notice that the tariff is available for inspection  
3 in its bill of lading or by other actual notice to individuals  
4 whose shipments are subject to the tariff.

5       “(3) A carrier that maintains a tariff under this sub-  
6 section is bound by the tariff except as otherwise provided  
7 in this subtitle. A carrier that does not maintain a tariff  
8 as provided in this subsection may not enforce the tariff  
9 against any individual shipper except as otherwise pro-  
10 vided in this subtitle, and shall not transport household  
11 goods described in section 13102(9)(A)(i).

12       “(4) A carrier may incorporate by reference the rates,  
13 terms, and other conditions in a tariff in agreements cov-  
14 ering the transportation of household goods (except those  
15 household goods described in section 13102(9)(A)(i)), if  
16 the tariff is maintained as provided in this subsection and  
17 the agreement gives notice of the incorporation and of the  
18 availability of the tariff for inspection by the commercial  
19 shipper.

20       “(5) A complaint that a rate or related rule or prac-  
21 tice maintained in a tariff under this subsection violates  
22 section 13701(a) may be filed with the Transportation  
23 Board.



1 **“§ 13703. Certain collective activities; exemption from antitrust**  
 2 **laws.**

3 **“(a) AGREEMENTS.—**

4 **“(1) AUTHORITY TO ENTER.—**A motor carrier  
 5 providing transportation or service subject to juris-  
 6 diction under chapter 135 may enter into an agree-  
 7 ment with one or more such carriers to establish—

8 **“(A) through routes and joint rates;**

9 **“(B) rates for the transportation of house-**  
 10 **hold goods described in section 13102(9)(a);**

11 **“(C) classifications;**

12 **“(D) mileage guides;**

13 **“(E) rules;**

14 **“(F) divisions;**

15 **“(G) rate adjustments of general applica-**  
 16 **tion based on industry average carrier costs (so**  
 17 **long as there is no discussion of individual mar-**  
 18 **kets or particular single-line rates); or**

19 **“(H) procedures for joint consideration;**  
 20 **initiation, or establishment of matters described**  
 21 **in subparagraphs (a) through(g).**

22 **“(2) SUBMISSION OF AGREEMENT TO PANEL;**  
 23 **APPROVAL.—**An agreement entered into under sub-  
 24 section (a) may be submitted by any carrier or car-  
 25 riers that are parties to such agreement to the panel  
 26 for approval and may be approved by the panel only

1 if it finds that such agreement is in the public inter-  
 2 est.

3 “(3) CONDITIONS.—The panel may require  
 4 compliance with reasonable conditions consistent  
 5 with this part to assure that the agreement furthers  
 6 the transportation policy set forth in section 13101.

7 “(4) INVESTIGATIONS.—The panel may sus-  
 8 pend and investigate the reasonableness of any clas-  
 9 sification or rate adjustment of general application  
 10 made pursuant to an agreement under this section.

11 “(5) EFFECT OF APPROVAL.—If the panel ap-  
 12 proves the agreement or renews approval of the  
 13 agreement, it may be made and carried out under its  
 14 terms and under the conditions required by the  
 15 panel, and the antitrust laws, as defined in the first  
 16 section of the Clayton Act (15 U.S.C. 12), do not  
 17 apply to parties and other persons with respect to  
 18 making or carrying out the agreement.

19 “(b) RECORDS.—The panel may require an organiza-  
 20 tion established or continued under an agreement ap-  
 21 proved under this section to maintain records and submit  
 22 reports: the panel, or its delegate, may inspect a record  
 23 maintained under this section, or monitor any organiza-  
 24 tion’s compliance with this section.

1       “(c) REVIEW.—The panel may review an agreement  
 2 approved under this section, on its own initiative or on  
 3 request, and shall change the conditions of approval or  
 4 terminate it when necessary to protect the public interest.  
 5 action of the panel under this section—

6               “(1) approving an agreement,

7               “(2) denying, ending, or changing approval,

8               “(3) prescribing the conditions on which ap-  
 9 proval is granted, or

10              “(4) changing those conditions,has effect only  
 11 as related to application of the antitrust laws re-  
 12 ferred to in subsection (a).

13       “(d) EXPIRATION OF APPROVALS; RENEWALS.—Sub-  
 14 ject to subsection (c),approval of an agreement under sub-  
 15 section (a) shall expire 3 years after the date of approval  
 16 unless renewed under this subsection. the approval may  
 17 be renewed upon request of the parties to the agreement  
 18 if such parties resubmit the agreement to the panel, the  
 19 agreement is unchanged,and the panel approves such re-  
 20 newal. the panel shall approve the renewal unless it finds  
 21 that the renewal is not in the public interest.

22       “(e) EXISTING AGREEMENTS.—Agreements approved  
 23 under former section 10706(b) and in effect on the day  
 24 before the effective date of this section shall be treated

1 for purposes of this section as approved by the panel under  
 2 this section beginning on such effective date.

3 ~~“(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—~~

4 ~~“(1) UNDERCHARGE CLAIMS.—NOTHING IN~~  
 5 ~~THIS SECTION SHALL SERVE AS A BASIS FOR ANY~~  
 6 ~~UNDERCHARGE CLAIM.~~

7 ~~“(2) OBLIGATION OF SHIPPER.—Nothing in~~  
 8 ~~this title, the Interstate Commerce Commission Sun-~~  
 9 ~~set Act of 1995, or any amendments or repeals~~  
 10 ~~made by such Act shall be construed as creating any~~  
 11 ~~obligation for a shipper based solely on a classifica-~~  
 12 ~~tion that was on file with the Interstate commerce~~  
 13 ~~Commission or elsewhere on the day before the ef-~~  
 14 ~~fective date of this section.~~

15 ~~“(g) MILEAGE RATE LIMITATION.—No carrier sub-~~  
 16 ~~ject to jurisdiction under subchapter I or III of chapter~~  
 17 ~~135 of this title may enforce collection of its mileage rates~~  
 18 ~~unless such carrier or forwarder maintains its own inde-~~  
 19 ~~pendent publication of mileage and classification which~~  
 20 ~~can be examined by any interested person upon reasonable~~  
 21 ~~request or is a participant in a publication of mileages for-~~  
 22 ~~mulated under an agreement approved under this section.~~

23 ~~“(h) SINGLE LINE RATE DEFINED.—In this section,~~  
 24 ~~the term ‘single line rate’ means a rate, charge, or allow-~~  
 25 ~~ance proposed by a single motor carrier that is applicable~~

1 only over its line and for which the transportation can be  
 2 provided by that carrier.

3 **“§ 13704. Household goods rates—estimates; guarantees of serv-**  
 4 **ice.**

5 “(a)(1) Subject to the provisions of paragraph (2) of  
 6 this subsection, a motor carrier providing transportation  
 7 of household goods subject to jurisdiction under sub-  
 8 chapter I of chapter 135 of this title may establish a rate  
 9 for the transportation of household goods which is based  
 10 on the carrier’s written, binding estimate of charges for  
 11 providing such transportation.

12 “(2) Any rate established under this subsection must  
 13 be available on a nonpreferential basis to shippers and  
 14 must not result in charges to shippers which are preda-  
 15 tory.

16 “(b)(1) Subject to the provisions of paragraph (2) of  
 17 this subsection, a motor carrier providing transportation  
 18 of household goods subject to jurisdiction under sub-  
 19 chapter I of chapter 135 of this title may establish rates  
 20 for the transportation of household goods which guarantee  
 21 that the carrier will pick up and deliver such household  
 22 goods at the times specified in the contract for such serv-  
 23 ices and provide a penalty or per diem payment in the  
 24 event the carrier fails to pick up or deliver such household  
 25 goods at the specified time. The charges, if any, for such

1 guarantee and penalty provision may vary to reflect one  
 2 or more options available to meet a particular shipper's  
 3 needs.

4       “(2) Before a carrier may establish a rate for any  
 5 service under paragraph (1) of this subsection, the Sec-  
 6 retary of Transportation may require such carrier to have  
 7 in effect and keep in effect, during any period such rate  
 8 is in effect under such paragraph, a rate for such service  
 9 which does not guarantee the pick up and delivery of  
 10 household goods at the times specified in the contract for  
 11 such services and which does not provide a penalty or per  
 12 diem payment in the event the carrier fails to pick up or  
 13 deliver household goods at the specified time.

14 **“§ 13705. Requirements for through routes among motor car-**  
 15 **riers of passengers.**

16       “(a) A motor carrier of passengers shall establish  
 17 through routes with other carriers of the same type and  
 18 shall establish individual and joint rates applicable to  
 19 them.

20       “(b) A through route between motor carriers provid-  
 21 ing transportation of passengers subject to jurisdiction  
 22 under subchapter I of chapter 135 must be reasonable.

23       “(c) When the Intermodal Surface Transportation  
 24 Board finds it necessary to enforce the requirements of  
 25 this section, the Transportation Board may prescribe

1 through routes and the conditions under which those  
2 routes must be operated for motor carriers providing  
3 transportation of passengers subject to jurisdiction under  
4 subchapter I of chapter 135.

5 **“§ 13706. Liability for payment of rates.**

6       “(a) Liability for payment of rates for transportation  
7 for a shipment of property by a shipper or consignor to  
8 a consignee other than the shipper or consignor, is deter-  
9 mined under this section when the transportation is pro-  
10 vided by motor carrier under this part. When the shipper  
11 or consignor instructs the carrier transporting the prop-  
12 erty to deliver it to a consignee that is an agent only, not  
13 having beneficial title to the property, the consignee is lia-  
14 ble for rates billed at the time of delivery for which the  
15 consignee is otherwise liable, but not for additional rates  
16 that may be found to be due after delivery if the consignee  
17 gives written notice to the delivering carrier before delivery  
18 of the property—

19               “(1) of the agency and absence of beneficial  
20 title; and

21               “(2) of the name and address of the beneficial  
22 owner of the property if it is reconsigned or diverted  
23 to a place other than the place specified in the origi-  
24 nal bill of lading.

1       “(b) When the consignee is liable only for rates billed  
 2     at the time of delivery under subsection (a) of this section,  
 3     the shipper or consignor, or, if the property is reconsigned  
 4     or diverted, the beneficial owner is liable for those addi-  
 5     tional rates regardless of the bill of lading or contract  
 6     under which the property was transported. The beneficial  
 7     owner is liable for all rates when the property is  
 8     reconsigned or diverted by an agent but is refused or  
 9     abandoned at its ultimate destination if the agent gave  
 10    the carrier in the reconsignment or diversion order a no-  
 11    tice of agency and the name and address of the beneficial  
 12    owner. A consignee giving the carrier erroneous informa-  
 13    tion about the identity of the beneficial owner of the prop-  
 14    erty is liable for the additional rates.

15    **“§ 13707. Billing and collecting practices.**

16       “(a) A motor carrier subject to jurisdiction under  
 17     subchapter I of chapter 135 shall disclose, when a docu-  
 18     ment is presented or electronically transmitted for pay-  
 19     ment to the person responsible directly to the motor car-  
 20     rier for payment or agent of such responsible person, the  
 21     actual rates, charges, or allowances for any transportation  
 22     service. No person may cause a motor carrier to present  
 23     false or misleading information on a document about the  
 24     actual rate, charge, or allowance to any party to the trans-  
 25     action. When the actual rate, charge, or allowance is de-



1 pendent upon the performance of a service by a party to  
 2 the transportation arrangement, such as tendering a vol-  
 3 ume of freight over a stated period of time, the motor ear-  
 4 rier shall indicate in any document presented for payment  
 5 to the person responsible directly to the motor carrier that  
 6 a reduction, allowance, or other adjustment may apply.

7 “(b) The Transportation Board shall promulgate reg-  
 8 ulations that prohibit a motor carrier subject to jurisdic-  
 9 tion under subchapter II of chapter 105 of this title from  
 10 providing a reduction in a rate for the provision of trans-  
 11 portation of property to any person other than—

12 “(1) the person paying the motor carrier di-  
 13 rectly for the transportation service according to the  
 14 bill of lading, receipt, or contract; or

15 “(2) an agent of the person paying for the  
 16 transportation.

17 **“§ 13708. Procedures for resolving claims involving unfilled, ne-**  
 18 **gotiated transportation rates.**

19 “(a) IN GENERAL.—When a claim is made by a motor  
 20 carrier of property (other than a household goods carrier)  
 21 providing transportation subject to jurisdiction under sub-  
 22 chapter II of chapter 105 of this title (as in effect on the  
 23 day before the effective date of this section) or subchapter  
 24 I of chapter 135 of this title, by a freight forwarder (other  
 25 than a household goods freight forwarder), or by a party

1 representing such a carrier or freight forwarder regarding  
 2 the collection of rates or charges for such transportation  
 3 in addition to those originally billed and collected by the  
 4 carrier or freight forwarder for such transportation; the  
 5 person against whom the claim is made may elect to sat-  
 6 isfy the claim under the provisions of subsection (b), (c),  
 7 or (d) ; upon showing that—

8           “(1) the carrier or freight forwarder is no  
 9 longer transporting property or is transporting prop-  
 10 erty for the purpose of avoiding the application of  
 11 this section; and

12           “(2) with respect to the claim—

13           “(A) the person was offered a transpor-  
 14 tation rate by the carrier or freight forwarder  
 15 other than that legally on file an the time with  
 16 the Transportation Board or with the former  
 17 Interstate Commerce Commission, as required,  
 18 for the transportation service;

19           “(B) the person tendered freight to the  
 20 carrier or freight forwarder in reasonable reli-  
 21 ance upon the offered transportation rate;

22           “(C) the carrier or freight forwarder did  
 23 not properly or timely file with the Transpor-  
 24 tation Board or with the former Interstate  
 25 Commerce Commission, as required, a tariff

1 providing for such transportation rate or failed  
2 to enter into an agreement for contract ear-  
3 niage;

4 “(D) such transportation rate was billed  
5 and collected by the carrier or freight for-  
6 warder; and

7 “(E) the carrier or freight forwarder de-  
8 mands additional payment of a higher rate filed  
9 in a tariff.

10 If there is a dispute as to the showing under para-  
11 graph (1), such dispute shall be resolved by the  
12 court in which the claim is brought. If there is a dis-  
13 pute as to the showing under paragraph (2), such  
14 dispute shall be resolved by the Intermodal Surface  
15 Transportation Board. Pending the resolution of any  
16 such dispute, the person shall not have to pay any  
17 additional compensation to the carrier or freight for-  
18 warder. Satisfaction of the claim under subsection  
19 (b), (c), or (d) shall be binding on the parties, and  
20 the parties shall not be subject to chapter 149 of  
21 this title or chapter 119 of this title, as such chapter  
22 was in effect on the date before the date of enact-  
23 ment of the Interstate Commerce Commission Sun-  
24 set Act of 1995.

1       “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING  
 2 10,000 POUNDS OR LESS.—A person from whom the addi-  
 3 tional legally applicable and effective tariff rate or charges  
 4 are sought may elect to satisfy the claim if the shipments  
 5 each weighed 10,000 pounds or less, by payment of 20  
 6 percent of the difference between the carrier’s applicable  
 7 and effective tariff rate and the rate originally billed and  
 8 paid. In the event that a dispute arises as to the rate that  
 9 was legally applicable to the shipment, such dispute shall  
 10 be resolved by the Transportation Board :

11       “(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE  
 12 THAN 10,000 POUNDS.—A person from whom the addi-  
 13 tional legally applicable and effective tariff rate or charges  
 14 are sought may elect to satisfy the claim if the shipments  
 15 each weighed more than 10,000 pounds, by payment of  
 16 15 percent of the difference between the carrier’s applica-  
 17 ble and effective tariff rate and the rate originally billed  
 18 and paid. In the event that a dispute arises as to the rate  
 19 that was legally applicable to the shipment, such dispute  
 20 shall be resolved by the Transportation Board.

21       “(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—  
 22 Notwithstanding subsections (b) and (c), a person from  
 23 whom the additional legally applicable and effective tariff  
 24 rate or charges are sought may elect to satisfy the claim  
 25 by payment of 5 percent of the difference between the car-

rier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Transportation Board.

“(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsections (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the date of enactment of the Interstate Commerce Commission Sunset Act of 1995.

“(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in subsection (a) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Transportation Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

“(g) NOTIFICATION OF ELECTION.—

1           ~~“(1) GENERAL RULE.—~~A person must notify  
 2           the carrier or freight forwarder as to its election to  
 3           proceed under subsection (b), (c), or (d). Except as  
 4           provided in paragraphs (2), (3), and (4), such elec-  
 5           tion may be made at any time.

6           ~~“(2) DEMANDS FOR PAYMENT INITIALLY MADE~~  
 7           ~~AFTER DECEMBER 3, 1993.—~~If the carrier or freight  
 8           forwarder or party representing such carrier or  
 9           freight forwarder initially demands the payment of  
 10          additional freight charges after December 3, 1993,  
 11          and notifies the person from whom additional freight  
 12          charges are sought of the provisions of subsections  
 13          (a) through (f) at the time of the making of such  
 14          initial demand, the election must be made not later  
 15          than the later of—

16                 ~~“(i) the 60th day following the filing of an~~  
 17                 answer to a suit for the collection of such addi-  
 18                 tional legally applicable freight rate or charges;  
 19                 or

20                 ~~“(ii) March 5, 1994.~~

21           ~~“(C) PENDING SUITS FOR COLLECTION MADE~~  
 22           ~~BEFORE DECEMBER 4, 1993.—~~If the carrier or  
 23           freight forwarder or party representing such carrier  
 24           or freight forwarder has filed, before December 4,  
 25           1993, a suit for the collection of additional freight

1 charges and notifies the person from whom addi-  
 2 tional freight charges are sought of the provisions of  
 3 subsections (a) through (f); the election must be  
 4 made not later than the 90th day following the date  
 5 on which such notification is received.

6 ~~“(D) DEMANDS FOR PAYMENT MADE BEFORE~~  
 7 ~~DECEMBER 4, 1993.—If the carrier or freight for-~~  
 8 ~~warder or party representing such carrier or freight~~  
 9 ~~forwarder has demanded the payment of additional~~  
 10 ~~freight charges, and has not filed a suit for the col-~~  
 11 ~~lection of such additional freight charges, before De-~~  
 12 ~~cember 4, 1993, and notifies the person from whom~~  
 13 ~~additional freight charges are sought of the provi-~~  
 14 ~~sions of subsections (a) through (f), the election~~  
 15 ~~must be made not later than the later of—~~

16 ~~“(i) the 60th day following the filing of an~~  
 17 ~~answer to a suit for the collection of such addi-~~  
 18 ~~tional legally applicable freight rate or charges;~~  
 19 ~~or~~

20 ~~“(ii) March 5, 1994.~~

21 ~~“(h) CLAIMS INVOLVING SMALL-BUSINESS CON-~~  
 22 ~~CERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE~~  
 23 ~~MATERIALS.—Notwithstanding subsections (b), (c), and~~  
 24 ~~(d), a person from whom the additional legally applicable~~  
 25 ~~and effective tariff rate or charges are sought shall not~~

1 be liable for the difference between the carrier's applicable  
 2 and effective tariff rate and the rate originally billed and  
 3 paid—

4 “(A) if such person qualifies as a small-business  
 5 concern under the Small Business Act (15 U.S.C.  
 6 631 et seq.);

7 “(B) if such person is an organization which is  
 8 described in section 501(c)(3) of the Internal Reve-  
 9 nue Code of 1986 and exempt from tax under sec-  
 10 tion 501(a) of such Code; or

11 “(C) if the cargo involved in the claim is recy-  
 12 clable materials. In this provision, ‘recyclable mate-  
 13 rials’ means waste products for recycling or reuse in  
 14 the furtherance of recognized pollution control pro-  
 15 grams.

16 **“§ 13709. Additional motor carrier undercharge provisions.**

17 “(a) A motor carrier of property (other than a motor  
 18 carrier providing transportation in noncontiguous domes-  
 19 tic trade) shall provide to the shipper, on request of the  
 20 shipper, a written or electronic copy of the rate, classifica-  
 21 tion, rules, and practices, upon which any rate agreed to  
 22 between the shipper and carrier may have been based.

23 “(2) In those cases where a motor carrier (other than  
 24 a motor carrier providing transportation of household  
 25 goods or in noncontiguous domestic trade) seeks to collect



1 charges in addition to those billed and collected which are  
2 contested by the payor, the carrier may request that the  
3 Transportation Board determine whether any additional  
4 charges over those billed and collected must be paid. A  
5 carrier must issue any bill for charges in addition to those  
6 originally billed within 180 days of the receipt of the origi-  
7 nal bill in order to have the right to collect such charges.

8       “(3) If a shipper seeks to contest the charges origi-  
9 nally billed, the shipper may request that the Transpor-  
10 tation Board determine whether the charges originally  
11 billed must be paid. A shipper must contest the original  
12 bill within 180 days in order to have the right to contest  
13 such charges.

14       “(4) Any tariff on file with the Interstate Commerce  
15 Commission on August 26, 1994, not required to be filed  
16 after that date is null and void beginning on that date.  
17 Any tariff on file with the Interstate Commerce Commis-  
18 sion on the effective date of the Interstate Commerce  
19 Commission Sunset Act of 1995 not required to be filed  
20 after that date is null and void beginning on that date.

21       “(b) If a motor carrier (other than a motor carrier  
22 providing transportation of household goods) subject to ju-  
23 risdiction under subchapter I of chapter 135 of this title  
24 had authority to provide transportation as both a motor  
25 common carrier and a motor contract carrier and a dis-

1   pute arises as to whether certain transportation that was  
 2   provided prior to the effective date of the Interstate Com-  
 3   merce Commission Sunset Act of 1995 was provided in  
 4   its common carrier or contract carrier capacity and the  
 5   parties are not able to resolve the dispute consensually,  
 6   the Transportation Board shall resolve the dispute.

7   **“§ 13710. Alternative Procedure for Resolving Undercharge Dis-**  
 8                                   **putes.**

9           “(a) GENERAL RULE.—It shall be an unreasonable  
 10   practice for a motor carrier of property (other than a  
 11   household goods carrier) providing transportation that is  
 12   subject to jurisdiction of subchapter I of chapter 135 of  
 13   this title or was subject to jurisdiction under subchapter  
 14   II of chapter 105 of this title, a freight forwarder (other  
 15   than a household goods freight forwarder), or a party rep-  
 16   resenting such a carrier or freight forwarder to attempt  
 17   to charge or to charge for a transportation service the dif-  
 18   ference between—

19                   “(1) the applicable rate that was lawfully in ef-  
 20           fect pursuant to a tariff that was filed in accordance  
 21           with this chapter, or with respect to transportation  
 22           provided before the effective date of this section in  
 23           accordance with chapter 107 of this title as in effect  
 24           on the date the transportation service was provided

1 by the carrier or freight forwarder applicable to such  
 2 transportation service; and

3 “(2) the negotiated rate for such transportation  
 4 service if the carrier or freight forwarder is no  
 5 longer transporting property between places de-  
 6 scribed in section 13501(1) of this title or is trans-  
 7 porting property between places described in section  
 8 13501(1) of this title for the purpose of avoiding the  
 9 application of this section.

10 “(b) JURISDICTION OF TRANSPORTATION BOARD.—

11 The Intermodal Surface Transportation Board shall have  
 12 jurisdiction to make a determination of whether or not at-  
 13 tempting to charge or the charging of a rate by a motor  
 14 carrier or freight forwarder or party representing a motor  
 15 carrier or freight forwarder is an unreasonable practice  
 16 under subsection (a). If the Transportation Board deter-  
 17 mines that attempting to charge or the charging of the  
 18 rate is an unreasonable practice under subsection (a), the  
 19 carrier, freight forwarder, or party may not collect the dif-  
 20 ference described in subsection (a) between the applicable  
 21 rate and the negotiated rate for the transportation service.  
 22 In making such determination, the Transportation Board  
 23 shall consider—

24 “(1) whether the person was offered a transpor-  
 25 tation rate by the carrier or freight forwarder or

1 party other than that legally on file with the Trans-  
2 portation Board or with the Interstate Commerce  
3 Commission, as required, at the time of the move-  
4 ment for the transportation service;

5 “(2) whether the person tendered freight to the  
6 carrier or freight forwarder in reasonable reliance  
7 upon the offered transportation rate;

8 “(3) whether the carrier or freight forwarder  
9 did not properly or timely file with the Transpor-  
10 tation Board or with the Interstate Commerce Com-  
11 mission, as required, a tariff providing for such  
12 transportation rate or failed to enter into an agree-  
13 ment for contract carriage;

14 “(4) whether the transportation rate was billed  
15 and collected by the carrier or freight forwarder; and

16 “(5) whether the carrier or freight forwarder or  
17 party demands additional payment of a higher rate  
18 filed in a tariff.

19 “(c) STAY OF ADDITIONAL COMPENSATION.—When  
20 a person proceeds under this section to challenge the rea-  
21 sonableness of the practice of a motor carrier, freight for-  
22 warder, or party described in subsection (a) to attempt  
23 to charge or to charge the difference described in sub-  
24 section (a) between the applicable rate and the negotiated  
25 rate for the transportation service in addition to those

1 charges already billed and collected for the transportation  
2 service; the person shall not have to pay any additional  
3 compensation to the carrier, freight forwarder, or party  
4 until the Transportation Board has made a determination  
5 as to the reasonableness of the practice as applied to the  
6 freight of the person against whom the claim is made.

7       “(d) TREATMENT.—Subsection (a) is an exception to  
8 the requirements of section 13702, and for transportation  
9 prior to the effective date of the Interstate Commerce  
10 Commission Sunset Act of 1995, to the requirements of  
11 sections 10761(a) and 10762 of this title as in effect on  
12 the date before the date of enactment of the Interstate  
13 Commerce Commission Sunset Act of 1995, relating to a  
14 filed tariff rate and other general tariff requirements.

15       “(e) NONAPPLICABILITY OF NEGOTIATED RATE DIS-  
16PUTE RESOLUTION PROCEDURE.—If a person elects to  
17 seek enforcement of subsection (a) with respect to a rate  
18 for a transportation or service, section 13708 of this part  
19 shall not apply to such rate.

20       “(f) DEFINITIONS.—For purposes of this section, the  
21 term ‘negotiated rate’ means a rate, charge, classification,  
22 or rule agreed upon by a motor carrier or freight for-  
23 warder and a shipper through negotiations pursuant to  
24 which no tariff was lawfully and timely filed and for which  
25 there is written evidence of such agreement.

1 **~~“§ 13711. Government traffic.~~**

2       ~~“A carrier providing transportation or service for the~~  
 3 ~~United States Government may transport property or indi-~~  
 4 ~~viduals for the United States Government without charge~~  
 5 ~~or at a rate reduced from the applicable commercial rate.~~  
 6 ~~Section 3709 of the Revised Statutes (41 U.S.C. 5) does~~  
 7 ~~not apply when transportation for the United States Gov-~~  
 8 ~~ernment can be obtained from a carrier lawfully operating~~  
 9 ~~in the area where the transportation would be provided.~~

10 **~~“§ 13712. Food and grocery transportation.~~**

11       ~~“(a) CERTAIN COMPENSATION PROHIBITED.—Not-~~  
 12 ~~withstanding any other provision of law, it shall not be~~  
 13 ~~unlawful for a seller of food and grocery products using~~  
 14 ~~a uniform zone delivered pricing system to compensate a~~  
 15 ~~customer who picks up purchased food and grocery prod-~~  
 16 ~~ucts at the shipping point of the seller if such compensa-~~  
 17 ~~tion is available to all customers of the seller on a non-~~  
 18 ~~discriminatory basis and does not exceed the actual cost~~  
 19 ~~to the seller of delivery to such customer.~~

20       ~~“(b) SENSE OF CONGRESS.—It is the sense of the~~  
 21 ~~Congress that any savings accruing to a customer by rea-~~  
 22 ~~son of compensation permitted by subsection (a) of this~~  
 23 ~~section should be passed on to the ultimate consumer.~~

1                   **~~“CHAPTER 139—REGISTRATION~~**

2   **~~“§ 13901. Requirement for registration.~~**

3           ~~“A person may provide transportation or service sub-~~  
4 ~~ject to jurisdiction under subchapter I or III of chapter~~  
5 ~~135 of this title or be a broker for transportation subject~~  
6 ~~to jurisdiction under subchapter I of that chapter, only~~  
7 ~~if the person is currently registered under this chapter to~~  
8 ~~provide the transportation or service.~~

9   **~~“§ 13902. Registration of motor carriers.~~**

10          ~~“(a)(1) Except as provided in this section, the Sec-~~  
11 ~~retary of Transportation shall register a person to provide~~  
12 ~~transportation subject to jurisdiction under subchapter I~~  
13 ~~of chapter 135 of this title as a motor carrier if the Sec-~~  
14 ~~retary finds that the person is willing and able to comply~~  
15 ~~with—~~

16               ~~“(A) this part, the applicable regulations of the~~  
17       ~~Secretary and the Intermodal Surface Transpor-~~  
18       ~~tation Board, and any safety requirements imposed~~  
19       ~~by the Secretary,~~

20               ~~“(B) the safety fitness requirements established~~  
21       ~~by the Secretary under section 31144 of this title,~~  
22       ~~and~~

23               ~~“(C) the minimum financial responsibility re-~~  
24       ~~quirements established by the Secretary pursuant to~~  
25       ~~sections 13906 and 31128 of this title.~~

1       “(2) The Secretary shall consider and, to the extent  
 2 applicable, make findings on, any evidence demonstrating  
 3 that the registrant is unable to comply with the require-  
 4 ments of subparagraph (A), (B), or (C) of paragraph (1).

5       “(3) The Secretary shall find any registrant as a  
 6 motor carrier under this section to be unfit if the reg-  
 7 istrant does not meet the fitness requirements under para-  
 8 graph (1) of this subsection and shall withhold registra-  
 9 tion.

10       “(4) The Secretary may hear a complaint from any  
 11 person concerning a registration under this subsection  
 12 only on the ground that the registrant fails or will fail  
 13 to comply with this part, the applicable regulations of the  
 14 Secretary and the Transportation Board, the safety re-  
 15 quirements of the Secretary, or the safety fitness or mini-  
 16 mum financial responsibility requirements of paragraph  
 17 (1) of this subsection.

18       “(b) MOTOR CARRIERS OF PASSENGERS.—

19               “(1) REGISTRATION OF PRIVATE RECIPIENTS  
 20 OF GOVERNMENT ASSISTANCE.—The Secretary shall  
 21 register under subsection (a)(1) a private recipient  
 22 of governmental assistance to provide special or  
 23 charter transportation subject to jurisdiction under  
 24 subchapter I of chapter 135 as a motor carrier of  
 25 passengers if the Secretary finds that the recipient



1 meets the requirements of subsection (a)(1), unless  
 2 the Secretary finds, on the basis of evidence pre-  
 3 sented by any person objecting to the registration,  
 4 that the transportation to be provided pursuant to  
 5 the registration is not in the public interest.

6 ~~“(2) REGISTRATION OF PUBLIC RECIPIENTS OF~~  
 7 ~~GOVERNMENTAL ASSISTANCE.—~~

8 ~~“(A) CHARTER TRANSPORTATION.—The~~  
 9 ~~Secretary shall register under subsection (a)(1)~~  
 10 ~~a public recipient of governmental assistance to~~  
 11 ~~provide special or charter transportation subject~~  
 12 ~~to jurisdiction under subchapter I of chapter~~  
 13 ~~135 as a motor carrier of passengers if the Sec-~~  
 14 ~~retary finds that—~~

15 ~~“(i) the recipient meets the require-~~  
 16 ~~ments of subsection (a)(1); and~~

17 ~~“(ii)(I) no motor carrier of passengers~~  
 18 ~~(other than a motor carrier of passengers~~  
 19 ~~which is a public recipient of governmental~~  
 20 ~~assistance) is providing, or is willing to~~  
 21 ~~provide, the transportation; or~~

22 ~~“(II) the transportation is to be pro-~~  
 23 ~~vided entirely in the area in which the pub-~~  
 24 ~~lic recipient provides regularly scheduled~~  
 25 ~~mass transportation services.~~

1           “(B)     REGULAR-ROUTE     TRANSPOR-  
2           TATION.—The Secretary shall register under  
3           subsection (a)(1) a public recipient of govern-  
4           mental assistance to provide regular-route  
5           transportation subject to jurisdiction under sub-  
6           chapter I of chapter 135 as a motor carrier of  
7           passengers if the Secretary finds that the recip-  
8           ient meets the requirements of subsection  
9           (a)(1), unless the Secretary finds, on the basis  
10          of evidence presented by any person objecting  
11          to the registration, that the transportation to be  
12          provided pursuant to the registration is not in  
13          the public interest.

14          “(C) TREATMENT OF CERTAIN PUBLIC RE-  
15          CIPIENTS.—Any public recipient of govern-  
16          mental assistance which is providing or seeking  
17          to provide transportation of passengers subject  
18          to jurisdiction under subchapter I of chapter  
19          135 shall, for purposes of this part, be treated  
20          as a person which is providing or seeking to  
21          provide transportation of passengers subject to  
22          such jurisdiction.

23          “(3) INTRASTATE TRANSPORTATION BY INTER-  
24          STATE CARRIERS.—A motor carrier of passengers  
25          that is registered by the Secretary under subsection

1       (a) is authorized to provide regular-route transpor-  
 2       tation entirely in one State as a motor carrier of  
 3       passengers if such intrastate transportation is to be  
 4       provided on a route over which the carrier provides  
 5       interstate transportation of passengers.

6       “(4) JURISDICTION OVER CERTAIN INTRASTATE  
 7       TRANSPORTATION.—Any intrastate transportation author-  
 8       ized under this subsection shall be deemed to be transpor-  
 9       tation subject to jurisdiction under subchapter I of chapter  
 10      135 of this title until such time, not later than 30 days  
 11      after the date on which a motor carrier of passengers first  
 12      begins providing transportation entirely in one State pur-  
 13      suant to this paragraph, as the carrier takes such action  
 14      as is necessary to establish under the laws of such State  
 15      rates, rules, and practices applicable to such transpor-  
 16      tation.

17      “(5) SPECIAL OPERATIONS.—This subsection shall  
 18      not apply to any regular-route transportation of pas-  
 19      sengers provided entirely in one State which is in the na-  
 20      ture of a special operation.

21      “(6) REVOCATION OF AUTHORITY FOR INTRASTATE  
 22      TRANSPORTATION.—Notwithstanding paragraph (3) of  
 23      this subsection, intrastate transportation authorized under  
 24      this subsection may be suspended or revoked by the Sec-  
 25      retary under section 13905 of this title at any time.

1       “(7) PREEMPTION OF STATE REGULATION.—No  
 2 State or political subdivision thereof and no interstate  
 3 agency or other political agency of two or more States  
 4 shall enact or enforce any law, rule, regulation, standard  
 5 or other provision having the force and effect of law relat-  
 6 ing to the provision of pickup and delivery of express pack-  
 7 ages, newspapers, or mail in a commercial zone if the ship-  
 8 ment has had or will have a prior or subsequent movement  
 9 by bus in intrastate commerce and, if a city within the  
 10 commercial zone, is served by a motor carrier of pas-  
 11 sengers providing regular-route transportation of pas-  
 12 sengers subject to jurisdiction under subchapter I of chap-  
 13 ter 135 of this title.

14       “(8) DEFINITIONS.—In this subsection, the fol-  
 15 lowing definitions apply:

16               “(A) PUBLIC RECIPIENT OF GOVERN-  
 17               MENTAL ASSISTANCE.—The term ‘public recipi-  
 18               ent of governmental assistance’ means—

19                       “(i) any State,

20                       “(ii) any municipality or other politi-  
 21                       cal subdivision of a State,

22                       “(iii) any public agency or instrumen-  
 23                       tality of one or more states and municipali-  
 24                       ties and political subdivisions of a State,

25                       “(iv) any Indian tribe,

1           “(v) any corporation, board, or other  
 2           person owned or controlled by any entity  
 3           described in clause (i), (ii), (iii), or (iv),  
 4           and  
 5           which, before, on, or after the effective date of  
 6           this subsection received governmental assistance  
 7           for the purchase or operation of any bus.

8           “(B) PRIVATE RECIPIENT OF GOVERN-  
 9           MENT ASSISTANCE.—The term ‘private recipi-  
 10          ent of government assistance’ means any person  
 11          (other than a person described in subparagraph  
 12          (A)) who before, on or after the effective date  
 13          of this paragraph received governmental finan-  
 14          cial assistance in the form of a subsidy for the  
 15          purchase, lease, or operation of any bus.

16          “(c) RESTRICTIONS ON MOTOR CARRIERS DOMI-  
 17          CILED IN OR OWNED OR CONTROLLED BY NATIONALS  
 18          OF A CONTIGUOUS FOREIGN COUNTRY.—

19           “(1) If the President of the United States, or  
 20          his or her delegate, determines that an act, policy,  
 21          or practice of a foreign country contiguous to the  
 22          United States, or any political subdivision or any in-  
 23          strumentality of any such country is unreasonable or  
 24          discriminatory and burdens or restricts United  
 25          States transportation companies providing, or seek-

1 ing to provide, motor carrier transportation of prop-  
2 erty or passengers to, from, or within such foreign  
3 country, the President, or his or her delegate, may—

4 “(A) seek elimination of such practices  
5 through consultations; or

6 “(B) notwithstanding any other provision  
7 of law, suspend, modify, amend, condition, or  
8 restrict operations, including geographical re-  
9 striction of operations, in the United States by  
10 motor carriers of property or passengers domi-  
11 ciled in such foreign country or owned or con-  
12 trolled by persons of such foreign country.

13 “(2) Any action taken under paragraph (1)(A)  
14 to eliminate an act, policy, or practice shall be so de-  
15 vised so as to equal to the extent possible the bur-  
16 dens or restrictions imposed by such foreign country  
17 on United States transportation companies.

18 “(3) The President, or his or her delegate, may  
19 remove or modify in whole or in part any action  
20 taken under paragraph (1)(A) if the President, or  
21 his or her delegate, determines that such removal or  
22 modification is consistent with the obligations of the  
23 United States under a trade agreement or with  
24 United States transportation policy.

1           “(4) Unless and until the President or his or  
 2           her delegate makes a determination under para-  
 3           graphs (1) or (3) above, nothing in this subsection  
 4           shall affect—

5                   “(A) operations of motor carriers of prop-  
 6                   erty or passengers domiciled in any contiguous  
 7                   foreign country or owned or controlled by per-  
 8                   sons of any contiguous foreign country per-  
 9                   mitted in the commercial zones along the U.S.-  
 10                  Mexico border as defined at the time of enact-  
 11                  ment of the Interstate Commerce Commission  
 12                  Sunset Act of 1995; or

13                   “(B) any existing restrictions on oper-  
 14                   ations of motor carriers of property or pas-  
 15                   sengers domiciled in any contiguous foreign  
 16                   country or owned or controlled by persons of  
 17                   any contiguous foreign country or any modifica-  
 18                   tions thereof pursuant to section 6 of the Bus  
 19                   Regulatory Reform Act of 1982.

20           “(5) Unless the President, or his or her dele-  
 21           gate, determines that expeditious action is required,  
 22           the President shall publish in the Federal Register  
 23           any determination under paragraphs (1) or (3) to-  
 24           gether with a description of the facts on which such  
 25           a determination is based and any proposed action to

1 be taken pursuant to paragraphs (1)(B) or (3) and  
 2 provide an opportunity for public comments.

3 “(6) The President may delegate any or all au-  
 4 thority under this subsection to the Secretary of  
 5 Transportation, who shall consult with other agen-  
 6 cies as appropriate. In accordance with the direc-  
 7 tions of the President, the Secretary of Transpor-  
 8 tation may issue regulations to enforce this sub-  
 9 section.

10 “(7) Either the Secretary of Transportation or  
 11 the Attorney General may bring a civil action in an  
 12 appropriate district court of the United States to en-  
 13 force this subsection or a regulation prescribed or  
 14 order issued under this subsection. The court may  
 15 award appropriate relief, including injunctive relief.

16 “(8) This subsection shall not affect the re-  
 17 quirement for all foreign motor carriers and foreign  
 18 motor private carriers operating in the United  
 19 States to fully comply with all applicable laws and  
 20 regulations pertaining to fitness; safety of oper-  
 21 ations; financial responsibility; and taxes imposed by  
 22 section 4481 of the Internal Revenue Code of 1994.

23 **“§ 13903. Registration of freight forwarders.**

24 “(a) The Secretary of Transportation shall register  
 25 a person to provide service subject to jurisdiction under



1 subchapter III of chapter 135 as a freight forwarder, if  
 2 the Secretary finds that the person is fit, willing, and able  
 3 to provide the service and to comply with this part and  
 4 applicable regulations of the Secretary and the Intermodal  
 5 Surface Transportation Board.

6 “(b) The freight forwarder may provide transpor-  
 7 tation as the carrier itself only if the freight forwarder  
 8 also has been registered to provide transportation as a car-  
 9 rier under this chapter.

10 **“§ 13904. Registration of motor carrier brokers.**

11 “(a) The Secretary of Transportation shall register,  
 12 subject to section 13906(b) of this title, a person to be  
 13 a broker for transportation of property subject to jurisdic-  
 14 tion under subchapter I of chapter 135 of this title, if the  
 15 Secretary finds that the person is fit, willing, and able to  
 16 be a broker for transportation and to comply with this  
 17 part and applicable regulations of the Secretary :

18 “(b)(1) The broker may provide the transportation  
 19 itself only if the broker also has been registered to provide  
 20 the transportation under this chapter.

21 “(2) This subsection does not apply to a motor ear-  
 22 rier registered under this chapter or to an employee or  
 23 agent of the motor carrier to the extent the transportation  
 24 is to be provided entirely by the motor carrier, with other  
 25 registered motor carriers, or with rail or water carriers.

1       “(c) Regulations of the Secretary shall provide for the  
2 protection of shippers by motor vehicle, to be observed by  
3 brokers.

4       “(d) The Secretary may impose on brokers for motor  
5 carriers of passengers such requirements for bonds or in-  
6 surance or both as the Secretary determines are needed  
7 to protect passengers and carriers dealing with such bro-  
8 kers.

9       **“§ 13905. Effective periods of registration.**

10       “(a) Each registration under section 13902, 13903,  
11 or 13904 of this title is effective from the date specified  
12 by the Secretary of Transportation and remains in effect  
13 for a period of 5 years except as otherwise provided in  
14 this section or in section 13906. The Secretary may re-  
15 quire any carrier or registrant to provide periodic updat-  
16 ing of carrier information.

17       “(b) On application of the holder, the Secretary may  
18 amend or revoke a registration. On complaint or on the  
19 Secretary’s own initiative and after notice and an oppor-  
20 tunity for a proceeding, the Secretary may suspend,  
21 amend, or revoke any part of the registration of a motor  
22 carrier, broker, or freight forwarder for willful failure to  
23 comply with this part, an applicable regulation or order  
24 of the Secretary or of the Intermodal Surface Transpor-  
25 tation Board, or a condition of its registration.

1       “(c)(1) Except on application of the holder, the Sec-  
 2       retary may revoke a registration of a motor carrier, freight  
 3       forwarder, or broker, only after the Secretary has issued  
 4       an order to the holder under section 14701 of this title  
 5       requiring compliance with this part, a regulation of the  
 6       Secretary, or a condition of the registration of the holder,  
 7       and the holder willfully does not comply with the order.

8       “(2) The Secretary may act under paragraph (1) of  
 9       this subsection only after giving the holder of the registra-  
 10      tion at least 30 days to comply with the order.

11      “(d)(1) Without regard to subchapter H of chapter  
 12      5 of title 5, the Secretary may suspend the registration  
 13      of a motor carrier, a freight forwarder, or a broker for  
 14      failure to comply with safety requirements of the Sec-  
 15      retary or the safety fitness requirements pursuant to sec-  
 16      tion 13904(c), 13906, or 31144, of this title, or an order  
 17      or regulation of the Secretary prescribed under those sec-  
 18      tions.

19      “(2) Without regard to subchapter H of chapter 5  
 20      of title 5, the Secretary may suspend a registration of a  
 21      motor carrier of passengers if the Secretary finds that  
 22      such carrier is conducting unsafe operations which are an  
 23      imminent hazard to public health or property.

24      “(3) The Secretary may suspend the registration only  
 25      after giving notice of the suspension to the holder. The

1 suspension remains in effect until the holder complies with  
2 those applicable sections or, in the case of a suspension  
3 under paragraph (2) of this subsection, until the Secretary  
4 revokes such suspension.

5 **“§ 13906. Security of motor carriers, brokers, and freight for-**  
6 **warders.**

7 “(a)(1) The Secretary of Transportation may register  
8 a motor carrier under section 13902 only if the registering  
9 carrier (including a motor private carrier, a foreign motor  
10 carrier, and a foreign motor private carrier) files with the  
11 Secretary a bond, insurance policy, or other type of secu-  
12 rity approved by the Secretary, in an amount not less than  
13 such amount as the Secretary prescribes pursuant to, or  
14 as is required by, sections 31138 and 31139 of this title,  
15 and the laws of the State or States in which the carrier  
16 is operating, to the extent applicable. The security must  
17 be sufficient to pay, not more than the amount of the secu-  
18 rity, for each final judgment against the carrier for bodily  
19 injury to, or death of, an individual resulting from the neg-  
20 ligent operation, maintenance, or use of motor vehicles,  
21 or for loss or damage to property (except property referred  
22 to in paragraph (3) of this subsection), or both. A registra-  
23 tion remains in effect only as long as the carrier continues  
24 to satisfy the security requirements of this paragraph.

1       “(2) A motor carrier and a foreign motor private car-  
2 rier and foreign motor carrier operating in the United  
3 States (when providing transportation between places in  
4 a foreign country or between a place in one foreign coun-  
5 try and a place in another foreign country) shall comply  
6 with the requirements of sections 13303 and 13304. To  
7 protect the public, the Secretary may require any such  
8 motor carrier to file the type of security that a motor car-  
9 rier is required to file under paragraph (1) of this sub-  
10 section.

11       “(3) The Secretary may require a registered motor  
12 carrier to file with the Secretary a type of security suffi-  
13 cient to pay a shipper or consignee for damage to property  
14 of the shipper or consignee placed in the possession of the  
15 motor carrier as the result of transportation provided  
16 under this part. A carrier required by law to pay a shipper  
17 or consignee for loss, damage, or default for which a con-  
18 necting motor carrier is responsible is subrogated, to the  
19 extent of the amount paid, to the rights of the shipper  
20 or consignee under any such security.

21       “(b) The Secretary may register a person as a broker  
22 under section 13904 of this title only if the person files  
23 with the Secretary a bond, insurance policy, or other type  
24 of security approved by the Secretary to ensure that the  
25 transportation for which a broker arranges is provided.

1 The registration remains in effect only as long as the  
2 broker continues to satisfy the security requirements of  
3 this subsection.

4       “(c)(1) The Secretary may register a person as a  
5 freight forwarder under section 13903 of this title only  
6 if the person files with the Secretary a bond, insurance  
7 policy, or other type of security approved by the Secretary.  
8 The security must be sufficient to pay, not more than the  
9 amount of the security, for each final judgment against  
10 the freight forwarder for bodily injury to, or death of, an  
11 individual, or loss of, or damage to, property (other than  
12 property referred to in paragraph (2) of this subsection),  
13 resulting from the negligent operation, maintenance, or  
14 use of motor vehicles by or under the direction and control  
15 of the freight forwarder when providing transfer, collec-  
16 tion, or delivery service under this part.

17       “(2) The Secretary may require a registered freight  
18 forwarder to file with the Secretary a bond, insurance pol-  
19 icy, or other type of security approved by the Secretary  
20 sufficient to pay, not more than the amount of the secu-  
21 rity, for loss of, or damage to, property for which the  
22 freight forwarder provides service.

23       “(3) The freight forwarder’s registration remains in  
24 effect only as long as the freight forwarder continues to  
25 satisfy the security requirements of this subsection.

1       “(d) The Secretary may determine the type and  
2 amount of security filed under this section. A motor car-  
3 rier may submit proof of qualifications as a self-insurer  
4 to satisfy the security requirements of this section. The  
5 Secretary shall adopt regulations governing the standards  
6 for approval as a self-insurer. Motor carriers which have  
7 been granted authority to self-insure as of the date of en-  
8 actment of the Interstate Commerce Commission Sunset  
9 Act of 1995 shall retain that authority unless, for good  
10 cause shown and after notice and an opportunity for a  
11 hearing, the Secretary finds that the authority must be  
12 revoked.

13       “(e) The Secretary shall promulgate regulations re-  
14 quiring the submission to the Secretary of notices of insur-  
15 ance cancellation sufficiently in advance of actual cancella-  
16 tion so as to enable the Secretary to promptly revoke the  
17 registration of any carrier or broker after the effective  
18 date of the cancellation. The Secretary shall also prescribe  
19 the appropriate form of endorsement to be appended to  
20 policies of insurance and surety bonds which will subject  
21 the insurance policy or surety bond to the full security  
22 limits of the coverage required under this section.

23       **“§ 13907. Household goods agents.**

24       “(a) Each motor carrier providing transportation of  
25 household goods subject to jurisdiction under subchapter

1 I of chapter 135 of this title shall be responsible for all  
2 acts or omissions of any of its agents which relate to the  
3 performance of household goods transportation services  
4 (including accessorial or terminal services) subject to ju-  
5 risdiction under subchapter I of chapter 135 of this title  
6 and which are within the actual or apparent authority of  
7 the agent from the carrier or which are ratified by the  
8 carrier.

9 “(b) Each motor carrier providing transportation of  
10 household goods subject to jurisdiction under subchapter  
11 I of chapter 135 of this title shall use due diligence and  
12 reasonable care in selecting and maintaining agents who  
13 are sufficiently knowledgeable, fit, willing, and able to pro-  
14 vide adequate household goods transportation services (in-  
15 cluding accessorial and terminal services) and to fulfill the  
16 obligations imposed upon them by this part and by such  
17 carrier.

18 “(c)(1) Whenever the Secretary of Transportation  
19 has reason to believe from a complaint or investigation  
20 that an agent providing household goods transportation  
21 services (including accessorial and terminal services)  
22 under the authority of a motor carrier providing transpor-  
23 tation of household goods subject to jurisdiction under  
24 subchapter I of chapter 135 of this title has violated sec-  
25 tion 14901(c) or 14912 of this title or is consistently not



1 fit, willing, and able to provide adequate household goods  
2 transportation services (including accessorial and terminal  
3 services); the Secretary may issue to such agent a com-  
4 plaint stating the charges and containing notice of the  
5 time and place of a hearing which shall be held no later  
6 than 60 days after service of the complaint to such agent.

7       “(2) Such agent shall have the right to appear at  
8 such hearing and rebut the charges contained in the com-  
9 plaint.

10       “(3) If such person does not appear at the hearing  
11 or if the Secretary finds that the agent has violated section  
12 14901(e) or 14912 of this title or is consistently not fit,  
13 willing, and able to provide adequate household goods  
14 transportation services (including accessorial and terminal  
15 services); the Secretary may issue an order to compel com-  
16 pliance with the requirement that the agent be fit, willing,  
17 and able. Thereafter, the Secretary may issue an order  
18 to limit, condition, or prohibit such agent from any in-  
19 volvement in the transportation or provision of services in-  
20 cidental to the transportation of household goods subject  
21 to jurisdiction under subchapter I of chapter 135 of this  
22 title if, after notice and an opportunity for a hearing, the  
23 Secretary finds that such agent, within a reasonable time  
24 after the date of issuance of a compliance order under this

1 section, but in no event less than 30 days after such date  
 2 of issuance, has willfully failed to comply with such order.

3       “(4) Upon filing of a petition with the Secretary by  
 4 an agent who is the subject of an order issued pursuant  
 5 to the second sentence of paragraph (3) of this subsection  
 6 and after notice, a hearing shall be held with an oppor-  
 7 tunity to be heard. At such hearing, a determination shall  
 8 be made whether the order issued pursuant to paragraph  
 9 (3) of this subsection should be rescinded.

10       “(5) Any agent adversely affected or aggrieved by an  
 11 order of the Secretary issued under this subsection may  
 12 seek relief in the appropriate United States court of ap-  
 13 peals as provided by and in the manner prescribed in chap-  
 14 ter 158 of title 28, United States Code.

15       “(d) The antitrust laws, as defined in the first section  
 16 of the Clayton Act (15 U.S.C. 12), do not apply to discus-  
 17 sions or agreements between a motor carrier providing  
 18 transportation of household goods subject to jurisdiction  
 19 under subchapter I of chapter 135 of this title and its  
 20 agents (whether or not an agent is also a carrier) related  
 21 solely to (1) rates for the transportation of household  
 22 goods under the authority of the principal carrier, (2) ac-  
 23 cessorial, terminal, storage, or other charges for services  
 24 incidental to the transportation of household goods trans-  
 25 ported under the authority of the principal carrier, (3) al-

1 lowances relating to transportation of household goods  
 2 under the authority of the principal carrier, and (4) own-  
 3 ership of a motor carrier providing transportation of  
 4 household goods subject to jurisdiction under subchapter  
 5 I of chapter 135 of this title by an agent or membership  
 6 on the board of directors of any such motor carrier by  
 7 an agent.

8 **“§ 13908. Registration and other reforms.**

9       “(a) IN GENERAL.—Within 18 months after the date  
 10 of enactment of the Interstate Commerce Commission  
 11 Sunset Act of 1995, the Secretary, in cooperation with the  
 12 States, industry groups, and other interested parties shall  
 13 complete a rulemaking to determine whether, and to what  
 14 extent, the current Department of Transportation identi-  
 15 fication number system, the single State registration sys-  
 16 tem under section 14506, the registration system con-  
 17 tained in this chapter, and the financial responsibility in-  
 18 formation system under section 13906, should be replaced  
 19 with a single, on-line Federal system.

20       “(b) FACTORS TO BE CONSIDERED.—In conducting  
 21 the rulemaking under subsection (a), the Secretary shall,  
 22 at a minimum, consider the following factors:

23               “(1) Funding for State enforcement of motor  
 24 carrier safety regulations.

1           ~~“(2) Whether the existing single State registra-~~  
 2           ~~tion system is duplicative and burdensome.~~

3           ~~“(3) The justification and need for collecting~~  
 4           ~~the statutory fee for such system under section 145-~~  
 5           ~~5(e)(2)(B)(iv).~~

6           ~~“(4) The public safety.~~

7           ~~“(5) The efficient delivery of transportation~~  
 8           ~~services.~~

9           ~~“(6) How, and under what conditions, to extend~~  
 10          ~~the registration system to motor private carriers and~~  
 11          ~~to carriers exempt under sections 13502, 13503, and~~  
 12          ~~13506.~~

13          ~~“(c) FEE SYSTEM.—The Secretary may establish,~~  
 14          ~~under section 9701 of title 31, a fee system for registra-~~  
 15          ~~tion and filing evidence of financial responsibility under~~  
 16          ~~the new system under subsection (a). Fees collected under~~  
 17          ~~the fee system shall cover the costs of operating and up-~~  
 18          ~~grading the registration system, including all personnel~~  
 19          ~~costs associated with the system. Fees collected under this~~  
 20          ~~subsection may be credited to the Department of Trans-~~  
 21          ~~portation appropriations account for purposes for which~~  
 22          ~~such fees are collected, and shall be available for expendi-~~  
 23          ~~ture until expended.~~

24          ~~“(d) STATE REGISTRATION PROGRAMS.—If the Sec-~~  
 25          ~~retary determines that no State should require insurance~~

1 filings or collect fees for such filings under section 14504;  
 2 the Secretary may prevent any State or political subdivi-  
 3 sion thereof, or any political authority of 2 or more States,  
 4 from imposing any insurance filing requirements or fees  
 5 that are for the same purposes as filings or fees the Sec-  
 6 retary requires under the new system under subsection  
 7 (a).

8       “(e) DEADLINE FOR CONCLUSION; MODIFICA-  
 9 TIONS.—Not later than 18 months after the date of enact-  
 10 ment of the Interstate Commerce Commission Sunset Act  
 11 of 1995, the Secretary—

12           “(1) shall conclude the rulemaking under this  
 13 section;

14           “(2) may implement such changes under this  
 15 section as the Secretary considers appropriate and in  
 16 the public interest; and

17           “(3) shall transmit to Congress a report on any  
 18 findings of the rulemaking and the changes being  
 19 implemented under this section, together with such  
 20 recommendations for legislative language necessary  
 21 to conform this part to such changes.

1       **“CHAPTER 141—OPERATIONS OF CARRIERS**

2           **“SUBCHAPTER I—GENERAL REQUIREMENTS**

3       **“§ 14101. Providing transportation and service.**

4           “(a) A carrier providing transportation or service  
5 subject to jurisdiction under chapter 135 of this title shall  
6 provide the transportation or service on reasonable re-  
7 quest. In addition, a motor carrier shall provide safe and  
8 adequate service, equipment, and facilities.

9           “(b) A carrier providing transportation or service  
10 subject to jurisdiction under chapter 135 of this title may  
11 enter into a contract with a shipper, other than a shipper  
12 of household goods described in section 13102(a)(A)(i), to  
13 provide specified services under specified rates and condi-  
14 tions. If the shipper and carrier in writing expressly waives  
15 any or all rights and remedies under this part for the  
16 transportation covered by the contract, the transportation  
17 provided under that contract shall not be subject to those  
18 provisions of this part, and may not be subsequently chal-  
19 lenged on the ground that it violates such provision. The  
20 parties may not waive the provisions governing registra-  
21 tion, insurance, or safety fitness. The exclusive remedy for  
22 any alleged breach of a contract entered into under this  
23 subsection shall be an action in an appropriate State court  
24 or United States district court, unless the parties other-  
25 wise agree.

1    **“§ 14102. Leased motor vehicles.**

2           “(a) The Secretary of Transportation may require a  
3   motor carrier providing transportation subject to jurisdic-  
4   tion under subchapter I of chapter 135 of this title that  
5   uses motor vehicles not owned by it to transport property  
6   under an arrangement with another party to—

7           “(1) make the arrangement in writing signed  
8       by the parties specifying its duration and the com-  
9       pensation to be paid by the motor carrier;

10          “(2) carry a copy of the arrangement in each  
11       motor vehicle to which it applies during the period  
12       the arrangement is in effect;

13          “(3) inspect the motor vehicles and obtain li-  
14       ability and cargo insurance on them; and

15          “(4) have control of and be responsible for op-  
16       erating those motor vehicles in compliance with re-  
17       quirements prescribed by the Secretary on safety of  
18       operations and equipment, and with other applicable  
19       law as if the motor vehicles were owned by the  
20       motor carrier.

21          “(b) The Secretary shall require, by regulation, that  
22   any arrangement, between a motor carrier of property pro-  
23   viding transportation subject to jurisdiction under sub-  
24   chapter I of chapter 135 of this title and any other person,  
25   under which such other person is to provide any portion  
26   of such transportation by a motor vehicle not owned by

1 the carrier shall specify, in writing, who is responsible for  
2 loading and unloading the property onto and from the  
3 motor vehicle.

4 **“§ 14103. Loading and unloading motor vehicles.**

5       “(a) Whenever a shipper or receiver of property re-  
6 quires that any person who owns or operates a motor vehi-  
7 cle transporting property in interstate commerce (whether  
8 or not such transportation is subject to jurisdiction under  
9 subchapter I of chapter 135 of this title) be assisted in  
10 the loading or unloading of such vehicle, the shipper or  
11 receiver shall be responsible for providing such assistance  
12 or shall compensate the owner or operator for all costs  
13 associated with securing and compensating the person or  
14 persons providing such assistance.

15       “(b) It shall be unlawful to coerce or attempt to co-  
16 erce any person providing transportation of property by  
17 motor vehicle for compensation in interstate commerce  
18 (whether or not such transportation is subject to jurisdic-  
19 tion under subchapter I of chapter 135 of this title) to  
20 load or unload any part of such property onto or from  
21 such vehicle or to employ or pay one or more persons to  
22 load or unload any part of such property onto or from  
23 such vehicle, except that this subsection shall not be con-  
24 strued as making unlawful any activity which is not unlaw-  
25 ful under the National Labor Relations Act or the Act of



1 March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), com-  
 2 monly known as the Norris-LaGuardia Act.

3 **“§ 14104. Household goods carrier operations.**

4       “(a)(1) The Secretary of Transportation may issue  
 5 regulations, including regulations protecting individual  
 6 shippers, in order to carry out this part with respect to  
 7 the transportation of household goods by motor carriers  
 8 subject to jurisdiction under subchapter I of chapter 135  
 9 of this title. The regulations and paperwork required of  
 10 motor carriers providing transportation of household  
 11 goods shall be minimized to the maximum extent feasible  
 12 consistent with the protection of individual shippers.

13       “(2) Regulations of the Secretary protecting individ-  
 14 ual shippers shall include, where appropriate, reasonable  
 15 performance standards for the transportation of household  
 16 goods subject to jurisdiction under subchapter I of chapter  
 17 135 of this title. In establishing performance standards  
 18 under this paragraph, the Secretary shall take into ac-  
 19 count at least the following:

20               “(A) the level of performance that can be  
 21 achieved by a well-managed motor carrier transport-  
 22 ing household goods;

23               “(B) the degree of harm to individual shippers  
 24 which could result from a violation of the regulation;

1           “(C) the need to set the level of performance at  
2           a level sufficient to deter abuses which result in  
3           harm to consumers and violations of regulations;

4           “(D) service requirements of the carriers;

5           “(E) the cost of compliance in relation to the  
6           consumer benefits to be achieved from such compli-  
7           ance; and

8           “(F) the need to set the level of performance at  
9           a level designed to encourage carriers to offer service  
10          responsive to shipper needs.

11          “(3) Nothing in this section shall be construed to  
12          limit the Secretary’s authority to require reports from  
13          motor carriers providing transportation of household  
14          goods or to require such carriers to provide specified infor-  
15          mation to consumers concerning their past performance.

16          “(b)(1) Every motor carrier providing transportation  
17          of household goods subject to jurisdiction under sub-  
18          chapter I of chapter 135 of this title may, upon request  
19          of a prospective shipper, provide the shipper with an esti-  
20          mate of charges for transportation of household goods and  
21          for the proposed services. The Secretary shall not prohibit  
22          any such carrier from charging a prospective shipper for  
23          providing a written, binding estimate for the transpor-  
24          tation and proposed services.

1       “(2) Any charge for an estimate of charges provided  
 2 by a motor carrier to a shipper for transportation of  
 3 household goods subject to jurisdiction under subchapter  
 4 I of chapter 135 of this title shall be subject to the anti-  
 5 trust laws, as defined in the first section of the Clayton  
 6 Act (15 U.S.C. 12).

7       “(c) The Secretary shall issue regulations that pro-  
 8 vide motor carriers providing transportation of household  
 9 goods subject to jurisdiction under subchapter I of chapter  
 10 135 of this title with the maximum possible flexibility in  
 11 weighing shipments, consistent with assurance to the ship-  
 12 per of accurate weighing practices. The Secretary shall not  
 13 prohibit such carriers from backweighing shipments or  
 14 from basing their charges on the reweigh weights if the  
 15 shipper observes both the tare and gross weighings (or,  
 16 prior to such weighings, waives in writing the opportunity  
 17 to observe such weighings) and such weighings are per-  
 18 formed on the same scale.

19       “SUBCHAPTER II—REPORTS AND RECORDS

20       “§ 14121. Definitions.

21       “‘In this subchapter—

22               “(1) ‘carrier’ and ‘broker’ include a receiver or  
 23 trustee of a carrier and broker, respectively.

24               “(2) ‘association’ means an organization main-  
 25 tained by or in the interest of a group of carriers or

1       brokers providing transportation or service subject  
 2       to jurisdiction under chapter 135 of this title that  
 3       performs a service, or engages in activities, related  
 4       to transportation under this part.

5       **~~“§ 14122. Records: form; inspection; preservation.~~**

6       ~~“(a) The Secretary of Transportation or the Inter-~~  
 7       ~~modal Surface Transportation Board, as applicable, may~~  
 8       ~~prescribe the form of records required to be prepared or~~  
 9       ~~compiled under this subchapter by carriers and brokers,~~  
 10       ~~including records related to movement of traffic and re-~~  
 11       ~~ceipts and expenditures of money.~~

12       ~~“(b) The Secretary or Transportation Board, or an~~  
 13       ~~employee designated by the Secretary or Transportation~~  
 14       ~~Board, may on demand and display of proper creden-~~  
 15       ~~tials—~~

16               ~~“(1) inspect and examine the lands, buildings,~~  
 17       ~~and equipment of a carrier or broker; and~~

18               ~~“(2) inspect and copy any record of—~~

19                       ~~“(A) a carrier, broker, or association; and~~

20                       ~~“(B) a person controlling, controlled by, or~~  
 21       ~~under common control with a carrier if the Sec-~~  
 22       ~~retary or Transportation Board, as applicable,~~  
 23       ~~considers inspection relevant to that person’s~~  
 24       ~~relation to, or transaction with, that carrier.~~

1       “(c) The Secretary or Transportation Board, as ap-  
 2 plicable, may prescribe the time period during which oper-  
 3 ating, accounting, and financial records must be preserved  
 4 by carriers.

5       **“§ 14123. Reports by carriers, brokers, and associations.**

6       “(a) The Secretary—

7               “(1) shall require class I and class II motor  
 8 carriers (as defined by the Secretary) to file annual  
 9 reports with the Secretary, including a detailed bal-  
 10 ance sheet and income statement, information relat-  
 11 ed to the ownership or lease of equipment operated  
 12 by the motor carrier, and data related to the move-  
 13 ment of traffic and safety performance, the form  
 14 and substance of which shall be prescribed by the  
 15 Secretary and may vary for different classes of  
 16 motor carriers;

17               “(2) may require carriers, freight forwarders,  
 18 brokers, lessors, and associations, or classes of them  
 19 as the Secretary may prescribe, to file quarterly,  
 20 periodic, or special reports with the Secretary and to  
 21 respond to surveys concerning their operations; and

22               “(3) shall have the authority upon good cause  
 23 shown to exempt any party from the financial re-  
 24 porting requirements prescribed by subsection (a)(1)  
 25 or (a)(2).

1 (b) Any request for exemption under paragraph (3) of sub-  
 2 section (a) must demonstrate, at a minimum, that an ex-  
 3 emption is required to avoid competitive harm and pre-  
 4 serve confidential business information that is not other-  
 5 wise publicly available. Exemptions shall only be granted  
 6 for one-year periods.”.

7 “(c) The Intermodal Surface Transportation Board  
 8 may require carriers to file special reports containing in-  
 9 formation needed by the Transportation Board.

## 10 **“CHAPTER 143—FINANCE**

### 11 **“§ 14301. Security interests in certain motor vehicles.**

12 “(a) In this section—

13 “(1) ‘motor vehicle’ means a truck of rated ca-  
 14 pacity (gross vehicle weight) of at least 10,000  
 15 pounds; a highway tractor of rated capacity (gross  
 16 combination weight) of at least 10,000 pounds; a  
 17 property-carrying trailer or semitrailer with at least  
 18 one load-carrying axle of at least 10,000 pounds; or  
 19 a motor bus with a seating capacity of at least 10  
 20 individuals.

21 “(2) ‘lien creditor’ means a creditor having a  
 22 lien on a motor vehicle and includes an assignee for  
 23 benefit of creditors from the date of assignment, a  
 24 trustee in a case under title 11 from the date of fil-

1       ing of the petition in that case, and a receiver in eq-  
2       uity from the date of appointment of the receiver.

3           ~~“(3) ‘security interest’ means an interest (in-~~  
4       ~~cluding an interest established by a conditional sales~~  
5       ~~contract, mortgage, equipment trust, or other lien or~~  
6       ~~title retention contract, or lease) in a motor vehicle~~  
7       ~~when the interest secures payment or performance of~~  
8       ~~an obligation.~~

9           ~~“(4) ‘perfection’, as related to a security inter-~~  
10      ~~est, means taking action (including public filing, re-~~  
11      ~~cording, notation on a certificate of title, and posses-~~  
12      ~~sion of collateral by the secured party), or the exist-~~  
13      ~~ence of facts, required under law to make a security~~  
14      ~~interest enforceable against general creditors and~~  
15      ~~subsequent lien creditors of a debtor, but does not~~  
16      ~~include compliance with requirements related only to~~  
17      ~~the establishment of a valid security interest between~~  
18      ~~the debtor and the secured party.~~

19      ~~“(b) A security interest in a motor vehicle owned by,~~  
20      ~~or in the possession and use of, a carrier registered under~~  
21      ~~section 13902 of this title and owing payment or perform-~~  
22      ~~ance of an obligation secured by that security interest is~~  
23      ~~perfected in all jurisdictions against all general, and subse-~~  
24      ~~quent lien, creditors of, and all persons taking a motor~~

1 vehicle by sale (or taking or retaining a security interest  
2 in a motor vehicle) from, that carrier when—

3           “(1) a certificate of title is issued for a motor  
4 vehicle under a law of a jurisdiction that requires or  
5 permits indication, on a certificate or title, of a secu-  
6 rity interest in the motor vehicle if the security in-  
7 terest is indicated on the certificate;

8           “(2) a certificate of title has not been issued  
9 and the law of the State where the principal place  
10 of business of that carrier is located requires or per-  
11 mits public filing or recording of, or in relation to,  
12 that security interest if there has been such a public  
13 filing or recording; and

14           “(3) a certificate of title has not been issued  
15 and the security interest cannot be perfected under  
16 paragraph (2) of this subsection, if the security in-  
17 terest has been perfected under the law (including  
18 the conflict of laws rules) of the State where the  
19 principal place of business of that carrier is located.

20 **“§ 14302. Pooling and division of transportation or earnings.**

21           “(a) A carrier providing transportation subject to ju-  
22 risdiction under subchapter I of chapter 135 of this title  
23 may not agree or combine with another such carrier to  
24 pool or divide traffic or services or any part of their earn-



1 ings without the approval of the Intermodal Surface  
2 Transportation Board under this section.

3       “(b) The Transportation Board may approve and au-  
4 thorize an agreement or combination between or among  
5 motor carriers of passengers, or between a motor carrier  
6 of passengers and a rail carrier of passengers, if the car-  
7 riers involved assent to the pooling or division and the  
8 Transportation Board finds that a pooling or division of  
9 traffic, services, or earnings—

10           “(1) will be in the interest of better service to  
11 the public or of economy of operation; and

12           “(2) will not unreasonably restrain competition.

13       “(c)(1) Any motor carrier of property may apply to  
14 the Transportation Board for approval of an agreement  
15 or combination with another such carrier to pool or divide  
16 traffic or any services or any part of their earnings by  
17 filing such agreement or combination with the Transpor-  
18 tation Board not less than 50 days before its effective  
19 date. Prior to the effective date of the agreement or com-  
20 bination, the Transportation Board shall determine wheth-  
21 er the agreement or combination is of major transpor-  
22 tation importance and whether there is substantial likeli-  
23 hood that the agreement or combination will unduly re-  
24 strain competition. If the Transportation Board deter-  
25 mines that neither of these two factors exists, it shall,

1 prior to such effective date and without a hearing, approve  
2 and authorize the agreement or combination, under such  
3 rules and regulations as the Transportation Board may  
4 issue, and for such consideration between such carriers  
5 and upon such terms and conditions as shall be found by  
6 the Transportation Board to be just and reasonable. If  
7 the Transportation Board determines either that the  
8 agreement or combination is of major transportation im-  
9 portance or that there is substantial likelihood that the  
10 agreement or combination will unduly restrain competi-  
11 tion, the Transportation Board shall hold a hearing con-  
12 cerning whether the agreement or combination will be in  
13 the interest of better service to the public or of economy  
14 in operation and whether it will unduly restrain competi-  
15 tion and shall suspend operation of such agreement or  
16 combination pending such hearing and final decision  
17 thereon. After such hearing, the Transportation Board  
18 shall indicate to what extent it finds that the agreement  
19 or combination will be in the interest of better service to  
20 the public or of economy in operation and will not unduly  
21 restrain competition and if assented to by all the carriers  
22 involved, shall to that extent, approve and authorize the  
23 agreement or combination, under such rules and regula-  
24 tions as the Transportation Board may issue, and for such  
25 consideration between such carriers and upon such terms

1 and conditions as shall be found by the Transportation  
2 Board to be just and reasonable.

3       “(2) In the case of an application for Transportation  
4 Board approval of an agreement or combination between  
5 a motor carrier providing transportation of household  
6 goods and its agents to pool or divide traffic or services  
7 or any part of their earnings, such agreement or combina-  
8 tion shall be presumed to be in the interest of better serv-  
9 ice to the public and of economy in operation and not to  
10 restrain competition unduly if the practices proposed to  
11 be carried out under such agreement or combination are  
12 the same as or similar to practices carried out under  
13 agreements and combinations between motor carriers pro-  
14 viding transportation of household goods to pool or divide  
15 traffic or service of any part of their earnings approved  
16 by the Interstate Commerce Commission before the date  
17 of enactment of the Interstate Commerce Commission  
18 Sunset Act of 1995.

19       “(3) The Transportation Board shall streamline, sim-  
20 plify, and expedite, to the maximum extent practicable, the  
21 process (including, but not limited to, any paperwork) for  
22 submission and approval of applications under this section  
23 for agreements and combinations between motor carriers  
24 providing transportation of household goods and their  
25 agents.

1       “(d) The Transportation Board may impose condi-  
 2       tions governing the pooling or division and may approve  
 3       and authorize payment of a reasonable consideration be-  
 4       tween the carriers.

5       “(e) The Transportation Board may begin a proceed-  
 6       ing under this section on its own initiative or on applica-  
 7       tion.

8       “(f) A carrier may participate in an arrangement ap-  
 9       proved by or exempted by the Transportation Board under  
 10      this section without the approval of any other federal,  
 11      State, or municipal body. A carrier participating in an ap-  
 12      proved or exempted arrangement is exempt from the anti-  
 13      trust laws and from all other law, including State and mu-  
 14      nicipal law, as necessary to let that person carry out the  
 15      arrangement.

16      “(g) Any agreements in operation under the provi-  
 17      sions of this title on the date of enactment of the Inter-  
 18      state Commerce Commission Sunset Act of 1995 that are  
 19      succeeded by this section shall remain in effect until fur-  
 20      ther order of the Transportation Board.

## 21      **“CHAPTER 145—FEDERAL-STATE RELATIONS**

### 22      **“§ 14501. Federal authority over intrastate transportation.**

23      “(a) MOTOR CARRIERS OF PASSENGERS.—No State  
 24      or political subdivision thereof and no interstate agency  
 25      or other political agency of two or more States shall enact

1 or enforce any law, rule, regulation, standard, or other  
 2 provisions having the force and effect of law relating to  
 3 scheduling of interstate or intrastate transportation (in-  
 4 cluding discontinuance or reduction in the level of service)  
 5 provided by motor carrier of passengers subject to juris-  
 6 diction under subchapter I of chapter 135 of this title on  
 7 an interstate route or relating to the implementation of  
 8 any change in the rates for such transportation except to  
 9 the extent that notice, not in excess of 30 days, of changes  
 10 in schedules may be required. This subsection shall not  
 11 apply to intrastate commuter bus operations.

12       “(b) FREIGHT FORWARDERS AND TRANSPORTATION  
 13 BROKERS.—

14               “(1) GENERAL RULE.—Subject to paragraph  
 15 (2) of this subsection, no State or political subdivi-  
 16 sion thereof and no intrastate agency or other politi-  
 17 cal agency of two or more States shall enact or en-  
 18 force any law, rule, regulation, standard, or other  
 19 provision having the force and effect of law relating  
 20 to intrastate rates, intrastate routes, or intrastate  
 21 services of any freight forwarder or transportation  
 22 broker.

23               “(2) CONTINUATION OF HAWAII’S AUTHOR-  
 24 ITY.—Nothing in this subsection and the amend-  
 25 ments made by the Surface Freight Forwarder De-

1 regulation Act of 1986 shall be construed to affect  
 2 the authority of the State of Hawaii to continue to  
 3 regulate a motor carrier operating within the State  
 4 of Hawaii.

5 “(c) MOTOR CARRIERS OF PROPERTY.—

6 “(1) GENERAL RULE.—Except as provided in  
 7 paragraphs (2) and (3), a State, political subdivision  
 8 of a State, or political authority of 2 or more States  
 9 may not enact or enforce a law, regulation, or other  
 10 provision having the force and effect of law related  
 11 to a price, route, or service of any motor carrier  
 12 (other than a carrier affiliated with a direct air car-  
 13 rier covered by section 41713(b)(4) of this title) or  
 14 any motor private carrier or any transportation  
 15 intermediary (as defined in sections 13102(1) and  
 16 13102(7) of this subtitle) with respect to the trans-  
 17 portation of property.

18 “(2) MATTERS NOT COVERED.—Paragraph  
 19 (1)—

20 “(A) shall not restrict the safety regulatory  
 21 authority of a State with respect to motor vehi-  
 22 cles; the authority of a State to impose highway  
 23 route controls or limitations based on the size  
 24 or weight of the motor vehicle or the hazardous  
 25 nature of the cargo; or the authority of a State

1 to regulate motor carriers with regard to mini-  
 2 mum amounts of financial responsibility relat-  
 3 ing to insurance requirements and self-insur-  
 4 ance authorization;

5 “(B) does not apply to the transportation  
 6 of household goods; and

7 “(C) does not apply to the authority of a  
 8 State or a political subdivision of a State to  
 9 enact or enforce a law, regulation, or other pro-  
 10 vision relating to the price and related condi-  
 11 tions of for-hire motor vehicle transportation by  
 12 a tow truck, if such transportation is per-  
 13 formed—

14 “(i) at the request of a law enforce-  
 15 ment agency; or

16 “(ii) without the prior consent or au-  
 17 thorization of the owner or operator of the  
 18 motor vehicle.

19 “(3) STATE STANDARD TRANSPORTATION PRAC-  
 20 TICES.—

21 “(A) CONTINUATION.—Paragraph (1) shall  
 22 not affect any authority of a State, political  
 23 subdivision of a State, or political authority of  
 24 2 or more States to enact or enforce a law, reg-  
 25 ulation, or other provision, with respect to the

intrastate transportation of property by motor  
carriers, related to

“(i) uniform cargo liability rules,

“(ii) uniform bills of lading or receipts  
for property being transported,

“(iii) uniform cargo credit rules, or

“(iv) antitrust immunity for joint line  
rates or routes, classifications, and mileage  
guides,

if such law, regulation, or provision meets the  
requirements of subparagraph (B).

“(B) REQUIREMENTS.—A law, regulation,  
or provision of a State, political subdivision, or  
political authority meets the requirements of  
this subparagraph if—

“(i) the law, regulation, or provision  
covers the same subject matter as, and  
compliance with such law, regulation, or  
provision is no more burdensome than  
compliance with, a provision of this part or  
a regulation issued by the Secretary of  
Transportation or the Intermodal Surface  
Transportation Board under this part; and



1                   “(ii) the law, regulation, or provision  
2                   only applies to a carrier upon request of  
3                   such carrier.

4                   “(C) ELECTION.—Notwithstanding any  
5                   other provision of law, a carrier affiliated with  
6                   a direct air carrier through common controlling  
7                   ownership may elect to be subject to a law, reg-  
8                   ulation, or provision of a State, political sub-  
9                   division, or political authority under this para-  
10                  graph.

11                  “(4) This subsection shall not apply with re-  
12                  spect to the State of Hawaii until August 22, 1997.

13       **“§ 14502. Tax discrimination against motor carrier transpor-**  
14                  **tation property.**

15                  “(a) In this section—

16                   “(1) ‘assessment’ means valuation for a prop-  
17                   erty tax levied by a taxing district;

18                   “(2) ‘assessment jurisdiction’ means a geo-  
19                   graphical area in a State used in determining the as-  
20                   sessed value of property for ad valorem taxation;

21                   “(3) ‘motor carrier transportation property’  
22                   means property, as defined by the Secretary of  
23                   Transportation, owned or used by a motor carrier  
24                   providing transportation in interstate commerce  
25                   whether or not such transportation is subject to ju-

1 jurisdiction under subchapter I of chapter 135 of this  
2 title; and

3 “(4) ‘commercial and industrial property’  
4 means property, other than transportation property  
5 and land used primarily for agricultural purposes or  
6 timber growing, devoted to a commercial or indus-  
7 trial use and subject to a property tax levy.

8 “(b) The following acts unreasonably burden and dis-  
9 criminate against interstate commerce and a State, sub-  
10 division of a State, or authority acting for a State or sub-  
11 division of a State may not do any of them:

12 “(1) Assess motor carrier transportation prop-  
13 erty at a value that has a higher ratio to the true  
14 market value of the motor carrier transportation  
15 property than the ratio that the assessed value of  
16 other commercial and industrial property in the  
17 same assessment jurisdiction has to the true market  
18 value of the other commercial and industrial prop-  
19 erty.

20 “(2) Levy or collect a tax on an assessment  
21 that may not be made under paragraph (1) of this  
22 subsection.

23 “(3) Levy or collect an ad valorem property tax  
24 on motor carrier transportation property at a tax  
25 rate that exceeds the tax rate applicable to commer-

1        eial and industrial property in the same assessment  
2        jurisdiction.

3        “(e) Notwithstanding section 1341 of title 28 and  
4        without regard to the amount in controversy or citizenship  
5        of the parties, a district court of the United States has  
6        jurisdiction, concurrent with other jurisdiction of courts  
7        of the United States and the States, to prevent a violation  
8        of subsection (b) of this section. Relief may be granted  
9        under this subsection only if the ratio of assessed value  
10       to true market value of motor carrier transportation prop-  
11       erty exceeds by at least 5 percent, the ratio of assessed  
12       value to true market value of other commercial and indus-  
13       trial property in the same assessment jurisdiction. The  
14       burden of proof in determining assessed value and true  
15       market value is governed by State law. If the ratio of the  
16       assessed value of other commercial and industrial property  
17       in the assessment jurisdiction to the true market value of  
18       all other commercial and industrial property cannot be de-  
19       termined to the satisfaction of the district court through  
20       the random-sampling method known as a sales assessment  
21       ratio study (to be carried out under statistical principles  
22       applicable to such a study), the court shall find, as a viola-  
23       tion of this section—

24                “(1) an assessment of the motor carrier trans-  
25        portation property at a value that has a higher ratio

1 to the true market value of the motor carrier trans-  
 2 portation property than the assessment value of all  
 3 other property subject to a property tax levy in the  
 4 assessment jurisdiction has to the true market value  
 5 of all such other property; and

6 “(2) the collection of ad valorem property tax  
 7 on the motor carrier transportation property at a  
 8 tax rate that exceeds the tax ratio rate applicable to  
 9 taxable property in the taxing district.

10 **“§ 14503. Withholding State and local income tax by certain car-**  
 11 **riers.**

12 “(a)(1) No part of the compensation paid by a motor  
 13 carrier providing transportation subject to jurisdiction  
 14 under subchapter I of chapter 135 of this title or by a  
 15 motor private carrier to an employee who performs regu-  
 16 larly assigned duties in 2 or more States as such an em-  
 17 ployee with respect to a motor vehicle shall be subject to  
 18 the income tax laws of any State or subdivision of that  
 19 State, other than the State or subdivision thereof of the  
 20 employee’s residence.

21 “(2) In this subsection ‘employee’ has the meaning  
 22 given such term in section 31132 of this title.

23 “(b)(1) In this subsection, an employee is deemed to  
 24 have earned more than 50 percent of pay in a State or  
 25 subdivision of that State in which the time worked by the

1 employee in the State or subdivision is more than 50 per-  
2 cent of the total time worked by the employee while em-  
3 ployed during the calendar year.

4 “(2) A water carrier providing transportation subject  
5 to the jurisdiction of the Secretary of Transportation  
6 under subchapter II of chapter 135 of this title shall file  
7 income tax information returns and other reports only  
8 with—

9 “(A) the State and subdivision of residence of  
10 the employee (as shown on the employment records  
11 of the carrier); and

12 “(B) the State and subdivision in which the em-  
13 ployee earned more than 50 percent of the pay re-  
14 ceived by the employee from the carrier during the  
15 preceding calendar year.

16 “(3) This subsection applies to pay of a master, offi-  
17 cer, or sailor who is a member of the crew on a vessel  
18 engaged in foreign, coastwise, intercoastal or noncontig-  
19 uous trade or in the fisheries of the United States.

20 “(c) A motor and motor private carrier withholding  
21 pay from an employee under subsection (a) of this section  
22 shall file income tax information returns and other reports  
23 only with the State and subdivision of residence of the em-  
24 ployee.

1 **~~“§ 14504. State tax.~~**

2       ~~“A State or political subdivision thereof may not col-~~  
 3 ~~lect or levy a tax, fee, head charge, or other charge on~~  
 4 ~~—~~

5           ~~“(1) a passenger traveling in interstate com-~~  
 6 ~~mmerce by motor carrier;~~

7           ~~“(2) the transportation of a passenger traveling~~  
 8 ~~in interstate commerce by motor carrier;~~

9           ~~“(3) the sale of passenger transportation in~~  
 10 ~~interstate commerce by motor carrier; or~~

11           ~~“(4) the gross receipts derived from such trans-~~  
 12 ~~portation.~~

13 **~~“§ 14505. Bus charter provision—subsidization by public enti-~~**  
 14 **~~ties.~~**

15           **~~“CHAPTER 147—ENFORCEMENT;~~**  
 16           **~~INVESTIGATIONS; RIGHTS; REMEDIES~~**

17 **~~“§ 14701. General authority.~~**

18       ~~“(a) The Secretary of Transportation or the Inter-~~  
 19 ~~modal Surface Transportation Board, as applicable, may~~  
 20 ~~begin an investigation under this part on the Secretary’s~~  
 21 ~~or the Transportation Board’s own initiative or on com-~~  
 22 ~~plaint. If the Secretary or Transportation Board, as appli-~~  
 23 ~~cable finds that a carrier or broker is violating this part,~~  
 24 ~~the Secretary or Transportation Board, as applicable,~~  
 25 ~~shall take appropriate action to compel compliance with~~  
 26 ~~this part. If the Secretary finds that a foreign motor car-~~

1 rier or foreign motor private carrier is violating chapter  
2 139 of this title, the Secretary shall take appropriate ac-  
3 tion to compel compliance with that chapter. The Sec-  
4 retary or Transportation Board, as applicable, may take  
5 action under this subsection only after giving the carrier  
6 or broker notice of the investigation and an opportunity  
7 for a proceeding.

8       “(b) A person, including a governmental authority,  
9 may file with the Secretary or Transportation Board, as  
10 applicable, a complaint about a violation of this part by  
11 a carrier providing, or broker for, transportation or service  
12 subject to jurisdiction under this part or a foreign motor  
13 carrier or foreign motor private carrier providing trans-  
14 portation registered under section 13902 of this title. The  
15 complaint must state the facts that are the subject of the  
16 violation. The Secretary or Transportation Board, as ap-  
17 plicable, may dismiss a complaint that it determines does  
18 not state reasonable grounds for investigation and action.

19       “(c) A formal investigative proceeding begun by the  
20 Secretary or Transportation Board under subsection (a)  
21 of this section is dismissed automatically unless it is con-  
22 cluded with administrative finality by the end of the third  
23 year after the date on which it was begun.

1 ~~“§ 14702. Enforcement by the regulatory authority.~~

2       ~~“(a) The Secretary of Transportation or the Inter-~~  
 3 ~~modal Surface Transportation Board, as applicable, may~~  
 4 ~~bring a civil action—~~

5           ~~“(1) to enforce section 14103 of this title; or~~

6           ~~“(2) to enforce this part, or a regulation or~~  
 7 ~~order of the Secretary or Transportation Board, as~~  
 8 ~~applicable, when violated by a carrier or broker pro-~~  
 9 ~~viding transportation or service subject to jurisdic-~~  
 10 ~~tion under subchapter I or III of chapter 135 of this~~  
 11 ~~title or by a foreign motor carrier or foreign motor~~  
 12 ~~private carrier providing transportation registered~~  
 13 ~~under section 13902 of this title.~~

14       ~~“(b) In a civil action under subsection (a)(2) of this~~  
 15 ~~section—~~

16           ~~“(1) trial is in the judicial district in which the~~  
 17 ~~carrier, foreign motor carrier, foreign motor private~~  
 18 ~~carrier, or broker operates;~~

19           ~~“(2) process may be served without regard to~~  
 20 ~~the territorial limits of the district or of the State~~  
 21 ~~in which the action is instituted; and~~

22           ~~“(3) a person participating with a carrier or~~  
 23 ~~broker in a violation may be joined in the civil action~~  
 24 ~~without regard to the residence of the person.~~



1       “(c) The Transportation Board, through its own at-  
 2       torneys, may bring or participate in any civil action involv-  
 3       ing motor carrier undercharges.

4       **“§ 14703. Enforcement by the Attorney General.**

5       “‘The Attorney General may, and on request of either  
 6       the Secretary of Transportation or Intermodal Surface  
 7       Transportation Board shall, bring court proceedings (1)  
 8       to enforce this part or a regulation or order of the Sec-  
 9       retary or Transportation Board or terms of registration  
 10      under this part and (2) to prosecute a person violating  
 11      this part or a regulation or order of the Secretary or  
 12      Transportation Board or term of registration under this  
 13      part.

14      **“§ 14704. Rights and remedies of persons injured by carriers or**  
 15                                   **brokers.**

16      “(a) A person injured because a carrier or broker pro-  
 17      viding transportation or service subject to jurisdiction  
 18      under chapter 135 of this title does not obey an order of  
 19      the Secretary of Transportation or the Intermodal Surface  
 20      Transportation Board, as applicable, under this part, ex-  
 21      cept an order for the payment of money, may bring a civil  
 22      action to enforce that order under this subsection.

23      “(b)(1) A carrier providing transportation or service  
 24      subject to jurisdiction under chapter 135 of this title is  
 25      liable to a person for amounts charged that exceed the

1 applicable rate for transportation or service contained in  
2 a tariff filed under section 13702 of this title.

3       ~~“(2) A carrier or broker providing transportation or~~  
4 ~~service subject to jurisdiction under chapter 135 of this~~  
5 ~~title is liable for damages sustained by a person as a result~~  
6 ~~of an act or omission of that carrier or broker in violation~~  
7 ~~of this part.~~

8       ~~“(c)(1) A person may file a complaint with the Trans-~~  
9 ~~portation Board or the Secretary, as applicable, under sec-~~  
10 ~~tion 14701(b) of this title or bring a civil action under~~  
11 ~~subsection (b)(1) or (2) of this section to enforce liability~~  
12 ~~against a carrier or broker providing transportation or~~  
13 ~~service subject to jurisdiction under chapter 135 of this~~  
14 ~~title.~~

15       ~~“(2) When the Transportation Board or Secretary,~~  
16 ~~as applicable, makes an award under subsection (b) of this~~  
17 ~~section, the Transportation Board or Secretary, as appli-~~  
18 ~~cable, shall order the carrier to pay the amount awarded~~  
19 ~~by a specific date. The Transportation Board or Secretary,~~  
20 ~~as applicable, may order a carrier or broker providing~~  
21 ~~transportation or service subject to jurisdiction under~~  
22 ~~chapter 135 of this title to pay damages only when the~~  
23 ~~proceeding is on complaint. The person for whose benefit~~  
24 ~~an order of the Transportation Board or Secretary requir-~~  
25 ~~ing the payment of money is made may bring a civil action~~

1 to enforce that order under this paragraph if the carrier  
2 or broker does not pay the amount awarded by the date  
3 payment was ordered to be made.

4 “(d)(1) When a person begins a civil action under  
5 subsection (b) of this section to enforce an order of the  
6 Transportation Board or Secretary requiring the payment  
7 of damages by a carrier or broker providing transportation  
8 or service subject to jurisdiction under chapter 135 of this  
9 title, the text of the order of the Transportation Board  
10 or Secretary must be included in the complaint. In addi-  
11 tion to the district courts of the United States, a State  
12 court of general jurisdiction having jurisdiction of the par-  
13 ties has jurisdiction to enforce an order under this para-  
14 graph. The findings and order of the Transportation  
15 Board or Secretary are competent evidence of the facts  
16 stated in them. Trial in a civil action brought in a district  
17 court of the United States under this paragraph is in the  
18 judicial district in which the plaintiff resides or in which  
19 the principal operating office of the carrier or broker is  
20 located. In a civil action under this paragraph, the plain-  
21 tiff is liable for only those costs that accrue on an appeal  
22 taken by the plaintiff.

23 “(2) All parties in whose favor the award was made  
24 may be joined as plaintiffs in a civil action brought in a  
25 district court of the United States under this subsection

1 and all the carriers that are parties to the order awarding  
 2 damages may be joined as defendants. Trial in the action  
 3 is in the judicial district in which any one of the plaintiffs  
 4 could bring the action against any one of the defendants.  
 5 Process may be served on a defendant at its principal op-  
 6 erating office when that defendant is not in the district  
 7 in which the action is brought. A judgment ordering recov-  
 8 ery may be made in favor of any of those plaintiffs against  
 9 the defendant found to be liable to that plaintiff.

10       “(3) The district court shall award a reasonable at-  
 11 torney’s fee as a part of the damages for which a carrier  
 12 or broker is found liable under this subsection. The dis-  
 13 trict court shall tax and collect that fee as a part of the  
 14 costs of the action.

15 **“§ 14705. Limitation on actions by and against carriers.**

16       “(a) A carrier providing transportation or service  
 17 subject to jurisdiction under chapter 135 of this title must  
 18 begin a civil action to recover charges for transportation  
 19 or service provided by the carrier within 18 months after  
 20 the claim accrues.

21       “(b) A person must begin a civil action to recover  
 22 overcharges within 18 months after the claim accrues. If  
 23 the claim is against a carrier providing transportation sub-  
 24 ject to jurisdiction under chapter 135 of this title and an  
 25 election to file a complaint with the Intermodal Surface

1 Transportation Board or Secretary of Transportation, as  
2 applicable, is made under section 14704(c)(1), the com-  
3 plaint must be filed within 3 years after the claim accrues.

4 “(c) A person must file a complaint with the Trans-  
5 portation Board or Secretary, as applicable, to recover  
6 damages under section 14704(b)(2) of this title within 2  
7 years after the claim accrues.

8 “(d) The limitation periods under subsection (b) of  
9 this section are extended for 6 months from the time writ-  
10 ten notice is given to the claimant by the carrier of dis-  
11 allowance of any part of the claim specified in the notice  
12 if a written claim is given to the carrier within those limi-  
13 tation periods. The limitation periods under subsection (b)  
14 of this section and the 2-year period under subsection (c)  
15 of this section are extended for 90 days from the time  
16 the carrier begins a civil action under subsection (a) of  
17 this section to recover charges related to the same trans-  
18 portation or service, or collects (without beginning a civil  
19 action under that subsection) the charge for that transpor-  
20 tation or service if that action is begun or collection is  
21 made within the appropriate period.

22 “(e) A person must begin a civil action to enforce  
23 an order of the Transportation Board or Secretary against  
24 a carrier for the payment of money within one year after  
25 the date the order required the money to be paid.

1       “(f) This section applies to transportation for the  
 2 United States Government. The time limitations under  
 3 this section are extended, as related to transportation for  
 4 or on behalf of the United States Government, for 3 years  
 5 from the date of (1) payment of the rate for the transpor-  
 6 tation or service involved, (2) subsequent refund for over-  
 7 payment of that rate, or (3) deduction made under section  
 8 3726 of title 31, whichever is later.

9       “(g) A claim related to a shipment of property ac-  
 10 cures under this section on delivery or tender of delivery  
 11 by the carrier.

12       **“§ 14706. Liability of carriers under receipts and bills of lading.**

13       “(a)(1) A carrier providing transportation or service  
 14 subject to jurisdiction under subchapter I or III of chapter  
 15 135 of this title shall issue a receipt or bill of lading for  
 16 property it receives for transportation under this part.  
 17 That carrier and any other carrier that delivers the prop-  
 18 erty and is providing transportation or service subject to  
 19 jurisdiction under subchapter I or III of chapter 135 or  
 20 chapter 105 of this title are liable to the person entitled  
 21 to recover under the receipt or bill of lading. The liability  
 22 imposed under this paragraph is for the actual loss or in-  
 23 jury to the property caused by (1) the receiving carrier,  
 24 (2) the delivering carrier, or (3) another carrier over  
 25 whose line or route the property is transported in the

1 United States or from a place in the United States to a  
 2 place in an adjacent foreign country when transported  
 3 under a through bill of lading and, except in the case of  
 4 a freight forwarder, applies to property reconsigned or di-  
 5 verted under a tariff filed under section 13702 of this title.  
 6 Failure to issue a receipt or bill of lading does not affect  
 7 the liability of a carrier. A delivering carrier is deemed  
 8 to be the carrier performing the line-haul transportation  
 9 nearest the destination but does not include a carrier pro-  
 10 viding only a switching service at the destination.

11       “(2) A freight forwarder is both the receiving and de-  
 12 livering carrier. When a freight forwarder provides service  
 13 and uses a motor carrier providing transportation subject  
 14 to jurisdiction under subchapter I of chapter 135 of this  
 15 title to receive property from a consignor, the motor car-  
 16 rier may execute the bill of lading or shipping receipt for  
 17 the freight forwarder with its consent. With the consent  
 18 of the freight forwarder, a motor carrier may deliver prop-  
 19 erty for a freight forwarder on the freight forwarder’s bill  
 20 of lading, freight bill, or shipping receipt to the consignee  
 21 named in it, and receipt for the property may be made  
 22 on the freight forwarder’s delivery receipt.

23       “(b) The carrier issuing the receipt or bill of lading  
 24 under subsection (a) of this section or delivering the prop-  
 25 erty for which the receipt or bill of lading was issued is

1 entitled to recover from the carrier over whose line or  
2 route the loss or injury occurred the amount required to  
3 be paid to the owners of the property, as evidenced by  
4 a receipt, judgment, or transcript, and the amount of its  
5 expenses reasonably incurred in defending a civil action  
6 brought by that person.

7       “(c)(1) A carrier may limit or be exempt from liabil-  
8 ity imposed under subsection (a) of this section by a mu-  
9 tual agreement recorded in writing or in an electronic me-  
10 dium, that is referred to in the receipt, bill of lading, or  
11 contract for the transportation involved entered into with  
12 the shipper, to limit liability to a specified amount.

13       “(2) If loss or injury to property occurs while it is  
14 in the custody of a water carrier, the liability of that car-  
15 rier is determined by its bill of lading and the law applica-  
16 ble to water transportation. The liability of the initial or  
17 delivering carrier is the same as the liability of the water  
18 carrier.

19       “(d)(1) A civil action under this section may be  
20 brought against a delivering carrier (other than a rail car-  
21 rier) in a district court of the United States or in a State  
22 court. Trial, if the action is brought in a district court  
23 of the United States is in a judicial district, and if in a  
24 State court, is in a State through which the defendant  
25 carrier operates.



1       “(2)(A) A civil action under this section may be  
2 brought against the carrier alleged to have caused the loss  
3 or damage, in the judicial district in which such loss or  
4 damage is alleged to have occurred.

5       “(B) A civil action under this section may be brought  
6 in a United States district court or in a State court.

7       “(C) In this section, ‘judicial district’ means (i) in  
8 the case of a United States district court, a judicial dis-  
9 trict of the United States, and (ii) in the case of a State  
10 court, the applicable geographic area over which such  
11 court exercises jurisdiction.

12       “(e) A carrier may not provide by rule, contract, or  
13 otherwise, a period of less than 9 months for filing a claim  
14 against it under this section and a period of less than 2  
15 years for bringing a civil action against it under this sec-  
16 tion. The period for bringing a civil action is computed  
17 from the date the carrier gives a person written notice that  
18 the carrier has disallowed any part of the claim specified  
19 in the notice. For the purposes of this subsection—

20               “(1) an offer of compromise shall not constitute  
21 a disallowance of any part of the claim unless the  
22 carrier, in writing, informs the claimant that such  
23 part of the claim is disallowed and provides reasons  
24 for such disallowance; and

1           ~~“(2) communications received from a carrier’s~~  
 2           ~~insurer shall not constitute a disallowance of any~~  
 3           ~~part of the claim unless the insurer, in writing, in-~~  
 4           ~~forms the claimant that such part of the claim is~~  
 5           ~~disallowed, provides reason for such disallowance,~~  
 6           ~~and informs the claimant that the insurer is acting~~  
 7           ~~on behalf of the carrier.~~

8           ~~“(f) A carrier or group of carriers subject to jurisdic-~~  
 9           ~~tion under subchapter I or III of chapter 135 of this title~~  
 10          ~~may petition the Transportation Board to modify, elimi-~~  
 11          ~~nate, or establish rates for the transportation of household~~  
 12          ~~goods under which the liability of the carrier for that prop-~~  
 13          ~~erty is limited to a value established by written declaration~~  
 14          ~~of the shipper or by a written agreement.~~

15          ~~“(g) Within one year after enactment of the Inter-~~  
 16          ~~state Commerce Commission Sunset Act of 1995, the Sec-~~  
 17          ~~retary shall deliver to the appropriate Congressional au-~~  
 18          ~~thorizing committees a report on the benefit of revising~~  
 19          ~~or modifying the terms or applicability of this section, to-~~  
 20          ~~gether with any proposed legislation to implement the~~  
 21          ~~study’s recommendations, if any.~~

22          ~~“§ 14707. Private enforcement of registration requirement.~~

23          ~~“(a) If a person provides transportation by motor ve-~~  
 24          ~~hicle or service in clear violation of section 13901-13904~~  
 25          ~~or 13906 of this title, a person injured by the transpor-~~

1 tation or service may bring a civil action to enforce any  
 2 such section. In a civil action under this subsection, trial  
 3 is in the judicial district in which the person who violated  
 4 that section operates.

5       “(b) A copy of the complaint in a civil action under  
 6 subsection (a) of this section shall be served on the Sec-  
 7 retary of Transportation and a certificate of service must  
 8 appear in the complaint filed with the court. The Sec-  
 9 retary may intervene in a civil action under subsection (a)  
 10 of this section. The Secretary may notify the district court  
 11 in which the action is pending that the Secretary intends  
 12 to consider the matter that is the subject of the complaint  
 13 in a proceeding before the Secretary. When that notice is  
 14 filed, the court shall stay further action pending disposi-  
 15 tion of the proceeding before the Secretary.

16       “(c) In a civil action under subsection (a) of this sec-  
 17 tion, the court may determine the amount of and award  
 18 a reasonable attorney’s fee to the prevailing party. That  
 19 fee is in addition to costs allowable under the Federal  
 20 Rules of Civil Procedure.

21 **“§ 14708. Dispute settlement program for household goods car-**  
 22 **riers.**

23       “(a)(1) As a condition of registration under section  
 24 13902 or 13903 of this title, a carrier providing transpor-  
 25 tation of household goods subject to jurisdiction under

1 subchapter I or III of chapter 135 of this title must agree  
2 to offer to shippers neutral arbitration as a means of set-  
3 tling disputes between such carriers and shippers of house-  
4 hold goods concerning the transportation of household  
5 goods.

6 “(b)(1) The arbitration that is offered must be de-  
7 signed to prevent a carrier from having any special advan-  
8 tage in any case in which the claimant resides or does  
9 business at a place distant from the carrier’s principal or  
10 other place of business.

11 “(2) The carrier must provide the shipper an ade-  
12 quate notice of the availability of neutral arbitration, in-  
13 cluding a concise easy-to-read, accurate summary of the  
14 arbitration procedure and disclosure of the legal effects  
15 of election to utilize arbitration. Such notice must be given  
16 to persons for whom household goods are to be trans-  
17 ported by the carrier before such goods are tendered to  
18 the carrier for transportation.

19 “(3) Upon request of a shipper, the carrier must  
20 promptly provide such forms and other information as are  
21 necessary for initiating an action to resolve a dispute  
22 under arbitration.

23 “(4) Each person authorized to arbitrate or otherwise  
24 settle disputes must be independent of the parties to the  
25 dispute and must be capable, as determined under such

1 regulations as the Secretary of Transportation may issue;  
2 to resolve such disputes fairly and expeditiously. The car-  
3 rier must ensure that each person chosen to settle the dis-  
4 putes is authorized and able to obtain from the shipper  
5 or carrier any material and relevant information to the  
6 extent necessary to carry out a fair and expeditious deci-  
7 sion making process.

8       “(5) No fee for instituting an arbitration proceeding  
9 may be charged the shipper; except that, if the arbitration  
10 is binding solely on the carrier, the shipper may be  
11 charged a fee of not more than \$25 for instituting an arbi-  
12 tration proceeding. In any case in which a shipper is  
13 charged a fee under this paragraph for instituting an arbi-  
14 tration proceeding and such dispute is settled in favor of  
15 the shipper, the person settling the dispute must refund  
16 such fee to the shipper unless the person settling the dis-  
17 pute determines that such refund is inappropriate.

18       “(6) The carrier must not require the shipper to  
19 agree to utilize arbitration prior to the time that a dispute  
20 arises.

21       “(7) The arbitrator may provide for an oral presen-  
22 tation of a dispute concerning transportation of household  
23 goods by a party to the dispute (or a party’s representa-  
24 tive); but such oral presentation may be made only if all

1 parties to the dispute expressly agree to such presentation  
2 and the date, time, and location of such presentation.

3       “(8) The arbitrator must, as expeditiously as possible  
4 but at least within 60 days of receipt of written notifica-  
5 tion of the dispute, render a decision based on the infor-  
6 mation gathered, except that, in any case in which a party  
7 to the dispute fails to provide in a timely manner any in-  
8 formation concerning such dispute which the person set-  
9 tling the dispute may reasonably require to resolve the dis-  
10 pute, the arbitrator may extend such 60-day period for  
11 a reasonable period of time. A decision resolving a dispute  
12 may include any remedies appropriate under the cir-  
13 cumstances, including repair, replacement, refund, reim-  
14 bursement for expenses, and compensation for damages.

15       “(e) Materials and information obtained in the course  
16 of a decision making process to settle a dispute by arbitra-  
17 tion under this section may not be used to bring an action  
18 under section 14905 of this title.

19       “(d) In any court action to resolve a dispute between  
20 a shipper of household goods and a motor carrier provid-  
21 ing transportation or service subject to jurisdiction under  
22 subchapter I or III of chapter 135 of this title concerning  
23 the transportation of household goods by such carrier, the  
24 shipper shall be awarded reasonable attorney’s fees if—

1           “(1) the shipper submits a claim to the carrier  
2           within 120 days after the date the shipment is deliv-  
3           ered or the date the delivery is scheduled, whichever  
4           is later;

5           “(2) the shipper prevails in such court action;  
6           and

7           “(3)(A) a decision resolving the dispute was not  
8           rendered through arbitration under this section with-  
9           in the period provided under subsection (b)(8) of  
10          this section or an extension of such period under  
11          such subsection; or

12          “(B) the court proceeding is to enforce a deci-  
13          sion rendered through arbitration under this section  
14          and is instituted after the period for performance  
15          under such decision has elapsed.

16          “(e) In any court action to resolve a dispute between  
17          a shipper of household goods and a carrier providing  
18          transportation, or service subject to jurisdiction under  
19          subchapter I or III of chapter 135 of this title concerning  
20          the transportation of household goods by such carrier,  
21          such carrier may be awarded reasonable attorney’s fees  
22          by the court only if the shipper brought such action in  
23          bad faith—

24          “(1) after resolution of such dispute through  
25          arbitration under this section; or

1           “(2) after institution of an arbitration proceed-  
 2           ing by the shipper to resolve such dispute under this  
 3           section but before (A) the period provided under  
 4           subsection (b)(8) for resolution of such dispute (in-  
 5           cluding, if applicable, an extension of such period  
 6           under such subsection) ends; and (B) a decision re-  
 7           solving such dispute is rendered.

8           “(f) The provisions of this section shall apply only  
 9           in the case of collect-on-delivery transportation of those  
 10          types of household goods described in section 13102(9)(A)  
 11          of this title.

12       **“§ 14709. Tariff reconciliation rules for motor carriers of prop-**  
 13                               **erty.**

14           “Subject to review and approval by the Intermodal  
 15          Surface Transportation Board, motor carriers subject to  
 16          jurisdiction under subchapter I of chapter 135 of this title  
 17          (other than motor carriers providing transportation of  
 18          household goods) and shippers may resolve, by mutual  
 19          consent, overcharge and under-charge claims resulting  
 20          from incorrect tariff provisions or billing errors arising  
 21          from the inadvertent failure to properly and timely file and  
 22          maintain agreed upon rates, rules, or classifications in  
 23          compliance with section 13702 of this part or sections  
 24          10761 and 10762 of this title prior to the effective date  
 25          of the Interstate Commerce Commission Sunset Act of



1 1995. Resolution of such claims among the parties shall  
 2 not subject any party to the penalties for departing from  
 3 a filed tariff.

4 **“§ 14710. Rate Discounts.**

5       “A person, or an officer, employee, or agent of that  
 6 person, that knowingly pays accepts, or solicits a reduced  
 7 rate or rates in violation of the regulations issued under  
 8 section 13707 of this title is liable to the injured party  
 9 or the United States for a civil penalty of not less than  
 10 \$5,000 and not more than \$10,000 plus 3 times the  
 11 amount of damages which a party incurs because of such  
 12 violation.

13 **“CHAPTER 149—CIVIL AND CRIMINAL PENALTIES**

14 **“§ 14901. General civil penalties.**

15       “(a) A person required to make a report to the Sec-  
 16 retary of Transportation or to the Intermodal Surface  
 17 Transportation Board, answer a question, or make, pre-  
 18 pare, or preserve a record under this part concerning  
 19 transportation subject to jurisdiction under subchapter I  
 20 or III of chapter 135 of this title or transportation by a  
 21 foreign carrier registered under section 13902 of this title,  
 22 or an officer, agent, or employee of that person that (1)  
 23 does not make the report, (2) does not specifically, com-  
 24 pletely, and truthfully answer the question, (3) does not  
 25 make, prepare, or preserve the record in the form and

1 manner prescribed, (4) does not comply with section  
2 13901 of this title, or (5) does not comply with section  
3 13902(e) of this title is liable to the United States Govern-  
4 ment for a civil penalty of not less than \$500 for each  
5 violation and for each additional day the violation contin-  
6 ues; except that, in the case of a person who does not have  
7 authority under this part to provide transportation of pas-  
8 sengers, or an officer, agent, or employee of such person,  
9 that does not comply with section 13901 of this title with  
10 respect to providing transportation of passengers, the  
11 amount of the civil penalty shall not be less than \$2,000  
12 for each violation and for each additional day the violation  
13 continues.

14 “(b) A person subject to jurisdiction under sub-  
15 chapter I of chapter 135 of this title, or an officer, agent,  
16 or employee of that person, and who is required to comply  
17 with section 13901 of this title but does not so comply  
18 with respect to the transportation of hazardous wastes as  
19 defined by the Environmental Protection Agency pursuant  
20 to section 3001 of the Solid Waste Disposal Act (but not  
21 including any waste the regulation of which under the  
22 Solid Waste Disposal Act has been suspended by Con-  
23 gress) shall be liable to the United States for a civil pen-  
24 alty not to exceed \$20,000 for each violation.

1       “(c) In determining and negotiating the amount of  
2 a civil penalty under subsection (a) or (d) concerning  
3 transportation of household goods, the degree of culpabil-  
4 ity, any history of prior such conduct, the degree of harm  
5 to shipper or shippers, ability to pay, the effect on ability  
6 to do business, whether the shipper has been adequately  
7 compensated before institution of the proceeding, and such  
8 other matters as fairness may require shall be taken into  
9 account.

10       “(d) If a carrier providing transportation of house-  
11 hold goods subject to jurisdiction under subchapter I or  
12 III of chapter 135 of this title or a receiver or trustee  
13 of such carrier fails or refuses to comply with any regula-  
14 tion issued by the Secretary or the Transportation Board  
15 relating to protection of individual shippers, such carrier,  
16 receiver, or trustee is liable to the United States for a civil  
17 penalty of not less than \$1,000 for each violation and for  
18 each additional day during which the violation continues.

19       “(e) Any person that knowingly engages in or know-  
20 ingly authorizes an agent or other person (1) to falsify  
21 documents used in the transportation of household goods  
22 subject to jurisdiction under subchapter I or III of chapter  
23 135 of this title which evidence the weight of a shipment,  
24 or (2) to charge for accessorial services which are not per-  
25 formed or for which the carrier is not entitled to be com-

1 pensated in any case in which such services are not rea-  
 2 sonably necessary in the safe and adequate movement of  
 3 the shipment, is liable to the United States for a civil pen-  
 4 alty of not less than \$2,000 for each violation and of not  
 5 less than \$5,000 for each subsequent violation. Any State  
 6 may bring a civil action in the United States district  
 7 courts to compel a person to pay a civil penalty assessed  
 8 under this subsection.

9 “(f) Trial in a civil action under subsections (a)  
 10 through (e) of this section is in the judicial district in  
 11 which (1) the carrier or broker has its principal office, (2)  
 12 the carrier or broker was authorized to provide transpor-  
 13 tation or service under this part when the violation oc-  
 14 curred, (3) the violation occurred, or (4) the offender is  
 15 found. Process in the action may be served in the judicial  
 16 district of which the offender is an inhabitant or in which  
 17 the offender may be found.

18 **“§ 14902. Civil penalty for accepting rebates from carrier.**

19 “A person—

20 “(1) delivering property to a carrier providing  
 21 transportation or service subject to jurisdiction  
 22 under chapter 135 of this title for transportation  
 23 under this part or for whom that carrier will trans-  
 24 port the property as consignor or consignee for that  
 25 person from a State or territory or possession of the

1 United States to another State or possession, terri-  
 2 tory, or to a foreign country; and

3 “(2) knowingly accepting or receiving by any  
 4 means a rebate or offset against the rate for trans-  
 5 portation for, or service of, that property contained  
 6 in a tariff required under section 13702 of this title;  
 7 is liable to the United States Government for a civil pen-  
 8 alty in an amount equal to 3 times the amount of money  
 9 that person accepted or received as a rebate or offset and  
 10 3 times the value of other consideration accepted or re-  
 11 ceived as a rebate or offset. In a civil action under this  
 12 section, all money or other consideration received by the  
 13 person during a period of 6 years before an action is  
 14 brought under this section may be included in determining  
 15 the amount of the penalty; and if that total amount is  
 16 included, the penalty shall be 3 times that total amount.

17 **“§ 14903. Tariff violations.**

18 “(a) A person that knowingly offers, grants, gives,  
 19 solicits, accepts, or receives by any means transportation  
 20 or service provided for property by a carrier subject to  
 21 jurisdiction under chapter 135 of this title at less than  
 22 the rate in effect under section 13702 of this title shall  
 23 be fined at least \$1,000 but not more than \$20,000, im-  
 24 prisoned for not more than 2 years, or both.

1       “(b) A carrier providing transportation or service  
 2 subject to jurisdiction under chapter 135 of this title or  
 3 an officer, director, receiver, trustee, lessee, agent, or em-  
 4 ployee of a corporation that is subject to jurisdiction under  
 5 that chapter, that willfully does not observe its tariffs as  
 6 required under section 13702 of this title, shall be fined  
 7 at least \$1,000 but not more than \$20,000, imprisoned  
 8 for not more than 2 years, or both.

9       “(c) When acting in the scope of their employment,  
 10 the actions and omissions of persons acting for or em-  
 11 ployed by a carrier or shipper that is subject to subsection  
 12 (a) or (b) of this section are considered to be the actions  
 13 and omissions of that carrier or shipper as well as that  
 14 person.

15       “(d) Trial in a criminal action under this section is  
 16 in the judicial district in which any part of the violation  
 17 is committed or through which the transportation is con-  
 18 ducted.

19       **“§ 14904. Additional rate violations.**

20       “(a) A person, or an officer, employee, or agent of  
 21 that person, that—

22               “(1) knowingly offers, grants, gives, solicits, ac-  
 23 cepts, or receives a rebate for concession, in violation  
 24 of a provision of this part related to motor carrier

1        transportation subject to jurisdiction under sub-  
2        chapter I of chapter 135 of this title; or

3            “(2) by any means knowingly and willfully as-  
4        sists or permits another person to get transportation  
5        that is subject to jurisdiction under that subchapter  
6        at less than the rate in effect for that transportation  
7        under section 13702 of this title;

8        shall be fined at least \$200 for the first violation and at  
9        least \$250 for a subsequent violation.

10        “(b)(1) A freight forwarder providing service subject  
11        to jurisdiction under subchapter III of chapter 135 of this  
12        title, or an officer, agent, or employee of that freight for-  
13        warder, that knowingly and willfully assists a person in  
14        getting, or willingly permits a person to get, service pro-  
15        vided under that subchapter at less than the rate in effect  
16        for that service under section 13702 of this title, shall be  
17        fined not more than \$500 for the first violation and not  
18        more than \$2,000 for a subsequent violation.

19        “(2) A person that knowingly and willfully by any  
20        means gets, or attempts to get, service provided under  
21        subchapter III of chapter 135 of this title at less than  
22        the rate in effect for that service under section 13702 of  
23        this title, shall be fined not more than \$500 for the first  
24        violation and not more than \$2,000 for a subsequent viola-  
25        tion.

1 **“§ 14905. Penalties for violations of rules relating to loading and**  
 2 **unloading motor vehicles.**

3 “(a) Any person who knowingly authorizes, consents  
 4 to, or permits a violation of subsection (a) or (b) of section  
 5 ~~14103~~ of this title or who knowingly violates subsection  
 6 (a) of such section is liable to the United States Govern-  
 7 ment for a civil penalty of not more than \$10,000 for each  
 8 violation.

9 “(b) Any person who knowingly violates section  
 10 ~~14103(b)~~ of this title shall be fined not more than  
 11 \$10,000, imprisoned for not more than 2 years, or both.

12 **“§ 14906. Evasion of regulation of carriers and brokers.**

13 “A person, or an officer, employee, or agent of that  
 14 person that by any means knowingly and willfully tries to  
 15 evade regulation provided under this part for carriers or  
 16 brokers shall be fined at least \$200 for the first violation  
 17 and at least \$250 for a subsequent violation.

18 **“§ 14907. Record keeping and reporting violations.**

19 “A person required to make a report to the Secretary  
 20 of Transportation or to the Intermodal Surface Transpor-  
 21 tation Board, as applicable, answer a question, or make,  
 22 prepare, or preserve a record under this part about trans-  
 23 portation subject to jurisdiction under subchapter I or III  
 24 of chapter ~~135~~ of this title, or an officer, agent, or em-  
 25 ployee of that person, that (1) willfully does not make that  
 26 report, (2) willfully does not specifically, completely, and



1 truthfully answer that question in 30 days from the date  
 2 the Secretary or Transportation Board, as applicable, re-  
 3 quires the question to be answered, (3) willfully does not  
 4 make, prepare, or preserve that record in the form and  
 5 manner prescribed, (4) knowingly and willfully falsifies,  
 6 destroys, mutilates, or changes that report or record, (5)  
 7 knowingly and willfully files a false report or record, (6)  
 8 knowingly and willfully makes a false or incomplete entry  
 9 in that record about a business related fact or transaction,  
 10 or (7) knowingly and willfully makes, prepares, or pre-  
 11 serves a record in violation of an applicable regulation or  
 12 order of the Secretary or Transportation Board shall be  
 13 fined not more than \$5,000.

14 **“§ 14908. Unlawful disclosure of information.**

15       “(a)(1) A carrier or broker providing transportation  
 16 subject to jurisdiction under subchapter I, II, or III of  
 17 chapter 135 of this title or an officer, receiver, trustee,  
 18 lessee, or employee of that carrier or broker, or another  
 19 person authorized by that carrier or broker to receive in-  
 20 formation from that carrier or broker may not knowingly  
 21 disclose to another person, except the shipper or con-  
 22 signee, and another person may not solicit, or knowingly  
 23 receive, information about the nature, kind, quantity, des-  
 24 tination, consignee, or routing of property tendered or de-  
 25 livered to that carrier or broker for transportation pro-

1 vided under this part without the consent of the shipper  
 2 or consignee if that information may be used to the det-  
 3 riment of the shipper or consignee or may disclose improp-  
 4 erly to a competitor the business transactions of the ship-  
 5 per or consignee.

6 “(2) A person violating paragraph (1) of this sub-  
 7 section shall be fined not less than \$2,000. Trial in a  
 8 criminal action under this paragraph is in the judicial dis-  
 9 trict in which any part of the violation is committed.

10 “(b) This part does not prevent a carrier or broker  
 11 providing transportation subject to jurisdiction under  
 12 chapter 135 of this title from giving information—

13 “(1) in response to legal process issued under  
 14 authority of a court of the United States or a State;

15 “(2) to an officer, employee, or agent of the  
 16 United States Government, a State, or a territory or  
 17 possession of the United States; or

18 “(3) to another carrier or its agent to adjust  
 19 mutual traffic accounts in the ordinary course of  
 20 business.

21 **“§ 14909. Disobedience to subpoenas.**

22 “A person not obeying a subpoena or requirement of  
 23 the Secretary of Transportation or the Intermodal Surface  
 24 Transportation Board to appear and testify or produce

1 records shall be fined not less than \$5,000, imprisoned  
 2 for not more than one year, or both.

3 **“§ 14910. General criminal penalty when specific penalty not**  
 4 **provided.**

5 “When another criminal penalty is not provided  
 6 under this chapter, a person that knowingly and willfully  
 7 violates a provision of this part or a regulation or order  
 8 prescribed under this part, or a condition of a registration  
 9 under this part related to transportation that is subject  
 10 to jurisdiction under subchapter I or III of chapter 135  
 11 of this title or a condition of a registration under section  
 12 13902 of this title, shall be fined at least \$500 for the  
 13 first violation and at least \$500 for a subsequent violation.  
 14 A separate violation occurs each day the violation contin-  
 15 ues.

16 **“§ 14911. Punishment of corporation for violations committed**  
 17 **by certain individuals.**

18 “An act or omission that would be a violation of this  
 19 part if committed by a director, officer, receiver, trustee,  
 20 lessee, agent, or employee of a carrier providing transpor-  
 21 tation or service subject to jurisdiction under chapter 135  
 22 of this title that is a corporation is also a violation of this  
 23 part by that corporation. The penalties of this chapter  
 24 apply to that violation. When acting in the scope of their  
 25 employment, the actions and omissions of individuals act-

1 ing for or employed by that carrier are considered to be  
 2 the actions and omissions of that carrier as well as that  
 3 individual.

4 **~~“§ 14912. Weight-bumping in household goods transportation.~~**

5 ~~“(a) For the purposes of this section, ‘weight-bump-~~  
 6 ~~ing’ means the knowing and willful making or securing~~  
 7 ~~of a fraudulent weight on a shipment of household goods~~  
 8 ~~which is subject to jurisdiction under subchapter I or III~~  
 9 ~~of chapter 135 of this title.~~

10 ~~“(b) Any individual who has been found to have com-~~  
 11 ~~mitted weight-bumping shall, for each offense, be fined at~~  
 12 ~~least \$1,000 but not more than \$10,000, imprisoned for~~  
 13 ~~not more than 2 years, or both.~~

14 **~~“§ 14913. Conclusiveness of rates in certain prosecutions.~~**

15 ~~“When a carrier publishes or files a particular rate~~  
 16 ~~under section 13702 or participates in such a rate, the~~  
 17 ~~published or filed rate is conclusive proof against that car-~~  
 18 ~~rier, its officers, and agents that it is the legal rate for~~  
 19 ~~that transportation or service in a proceeding begun under~~  
 20 ~~section 14902 or 14903 of this title. A departure, or offer~~  
 21 ~~to depart, from that published or filed rate is a violation~~  
 22 ~~of those sections.”.~~

1 **Subtitle B—Motor Carrier Reg-**  
 2 **istration and Insurance Re-**  
 3 **quirements**

4 **SEC. 451. AMENDMENT OF SECTION 31102.**

5 Section 31102(b)(1) is amended by—

6 (1) striking “and” at the end of subparagraph

7 (O);

8 (2) striking the period at the end of subpara-

9 graph (P) and inserting a semicolon and “and”; and

10 (3) adding at the end thereof the following:

11 “(Q) ensures that the State will cooperate in

12 the enforcement of registration and financial respon-

13 sibility requirements under sections 31140 and

14 31146 of this title, or regulations issued there-

15 under.”

16 **SEC. 452. AMENDMENT OF SECTION 31138.**

17 (a) Section 31138(c) is amended by adding at the end

18 thereof the following new paragraph:

19 “(3) A motor carrier may obtain the required

20 amount of financial responsibility from more than

21 one source provided the cumulative amount is equal

22 to the minimum requirements of this section.”

23 (b) Section 31138 is amended by adding at the end

24 thereof the following:

1       “(f) LOWER COVERAGE PERMITTED FOR CERTAIN  
 2 OPERATIONS.—Under regulations promulgated by the  
 3 Secretary, the minimum amount set forth in subsection  
 4 (b)(1) shall not apply to motor vehicles used, under a pro-  
 5 gram funded in whole or in part with a Federal transit  
 6 grant, to provide supplemental para-transit services for  
 7 the elderly and disabled.”.

8       (e) Section 31139(e) is amended by adding at the end  
 9 thereof the following:

10           “(3) A motor carrier may obtain the required  
 11 amount of financial responsibility from more than  
 12 one source provided the cumulative amount is equal  
 13 to the minimum requirements of this section.”.

14       **SEC. 453. SELF—INSURANCE RULES.**

15       The Secretary of Transportation shall continue to en-  
 16 force the rules and regulations of the Interstate Commerce  
 17 Commission, as in effect on July 1, 1995, governing the  
 18 qualifications for approval of a motor carrier as a self-  
 19 insurer, until such time as the Secretary finds it in the  
 20 public interest to revise such rules. The revised rules must  
 21 provide for—

22           (1) continued ability of motor carriers to qualify  
 23 as self-insurers; and

24           (B) the continued qualification of all carriers  
 25 then so qualified under the terms and conditions set

1 by the Interstate Commerce Commission or Sec-  
 2 retary at the time of qualification.

3 **SEC. 454. MOTOR CARRIER FINANCIAL RESPONSIBILITY IN-**  
 4 **FORMATION SYSTEM.**

5 (a) Subchapter III of chapter 311 is amended by—

6 (1) redesignating section 31140 as 31140a; and

7 (2) inserting after section 31139 the following:

8 **“§ 31140. Motor Carrier Financial Responsibility Information**  
 9 **System**

10 **“(a) GENERAL REQUIREMENT.—**The Secretary of  
 11 Transportation shall establish and maintain a Motor Car-  
 12 rier Register that will serve as a clearinghouse and deposi-  
 13 tory of information on compliance with the required levels  
 14 of financial responsibility, service of process agents, and  
 15 identification and disqualification of motor carriers re-  
 16 quired to register with the Secretary pursuant to section  
 17 13901 and 13906 of this title. The Secretary shall consult  
 18 with the States, motor carriers, and insurers in carrying  
 19 out this section.

20 **“(b) ACCESS TO REGISTER INFORMATION.—**

21 **“(1) The information on the Register shall be**  
 22 **made available by electronic and other means to any**  
 23 **person or State upon the receipt of a request for**  
 24 **such information.**

1           ~~“(2) The Secretary is authorized to establish a~~  
2           ~~user fee system for making inquiries to obtain finan-~~  
3           ~~cial responsibility information from the information~~  
4           ~~system, pursuant to section 9701, title 31, United~~  
5           ~~States Code. The fees shall not exceed 120 percent~~  
6           ~~of the direct costs of responding to the inquiry. Fees~~  
7           ~~collected under this subsection in a fiscal year shall~~  
8           ~~not exceed the costs of operating the information~~  
9           ~~system in that fiscal year. Such fees may be credited~~  
10          ~~to the Department of Transportation appropriation~~  
11          ~~account charged in proportion to the amount ex-~~  
12          ~~pended from the account for these purposes, and~~  
13          ~~shall be available for expenditure until expended.~~  
14          ~~The Secretary shall waive the fees applicable to~~  
15          ~~States for access to the motor carrier register.”.~~

16          (b) The index for subchapter III of chapter 311 is  
17          amended by striking the item relating to section 31140  
18          and inserting the following:

~~“31140. Motor carrier financial responsibility information system~~  
~~“31140a. Submission of State laws and regulations for review”.~~

19       **SEC. 455. SAFETY FITNESS OF OWNERS AND OPERATORS.**

20          Section 31144 is amended by—

21               (1) striking ~~“In cooperation with the Interstate~~  
22               ~~Commerce Commission, the”~~ in the first sentence of  
23               subsection (a) and inserting ~~“The”~~;



1           (2) by striking “sections 10922 and 10923” in  
2           that sentence and inserting “section 13902”;

3           (3) striking “and the Commission” in sub-  
4           section (a)(1)(C); and

5           (4) striking subsection (b) and inserting the fol-  
6           lowing:

7           “(b) Findings and action on registrations.—The Sec-  
8           retary shall—

9           “~~(1)~~ find a registrant as a motor carrier unfit  
10          if the registrant does not meet the safety fitness re-  
11          quirements established under subsection (a) of this  
12          section; and

13          “~~(2)~~ withhold registration.”.

14   **SEC. 456. REGISTRATION.**

15          (a) Subchapter III of chapter 311 is amended by add-  
16          ing at the end the following:

17          **“§ 31148. Registration**

18          “(a) PERSONS REQUIRED TO FILE.—

19                 “(1) The Secretary of Transportation shall re-  
20                 quire any motor carrier of passengers or property,  
21                 operating in interstate commerce, to register its  
22                 motor vehicle operations with the Department of  
23                 Transportation.

24                 “(2) The Secretary shall require motor carriers  
25                 and motor private carriers domiciled in foreign coun-

1       tries or owned or controlled by nationals of foreign  
2       countries contiguous to the United States to register  
3       with the Department of Transportation when offer-  
4       ing or providing transportation services within the  
5       United States or between the United States and a  
6       foreign country.

7           “(3) Department of Transportation Identifica-  
8       tion Number.—Upon receipt of a registration state-  
9       ment completed in accordance with the requirements  
10      of this section, the Secretary shall issue a Depart-  
11      ment of Transportation identification number.

12           “(4) Regulations.—

13           “(A) The Secretary shall promulgate regu-  
14       lations to implement the requirements of this  
15       section. Such regulations shall become effective  
16       no later than 6 months after the date of enact-  
17       ment of the Interstate Commerce Commission  
18       Sunset Act of 1995.

19           “(B) The information regarding financial  
20       responsibility and agent for service of process  
21       shall be submitted in formats to be prescribed  
22       by the Secretary. Such information may be sub-  
23       mitted either electronically or non-electronically.  
24       Until the Secretary prescribes such formats, the  
25       information shall continue to be submitted on

1 forms authorized by the Interstate Commerce  
 2 Commission as of the date of enactment of the  
 3 Interstate Commerce Commission Sunset Act of  
 4 1995.

5 “(b) COMPLIANCE WITH REGISTRATION REQUIRE-  
 6 MENTS.—

7 “(1) No carrier required to file a registration  
 8 statement under subsection (a) may operate any  
 9 commercial motor vehicle, as defined in section  
 10 31132 of this title, in commerce unless the carrier’s  
 11 operations are currently registered with the Sec-  
 12 retary and the carrier has a valid number issued by  
 13 the Secretary.

14 “(2) The Secretary may deny, revoke, or sus-  
 15 pend a carrier’s operations, as provided for in this  
 16 section, because of noncompliance with the motor  
 17 carrier safety fitness standards, required levels of fi-  
 18 nancial responsibility, or any restrictions or condi-  
 19 tions imposed pursuant to section 31181, as deter-  
 20 mined by the Secretary.

21 “(c) FINANCIAL RESPONSIBILITY OF CARRIERS.—

22 The Secretary may issue a Department of Transportation  
 23 identification number under this section only if the carrier  
 24 applying for such registration number files with the Sec-  
 25 retary proof of financial responsibility in an amount not

1 less than that prescribed by the Secretary pursuant to sec-  
2 tions 31138 and 31139 of this title.

3 ~~“(d) FILING DEADLINES.—~~

4 ~~“(1) Carriers that have valid operating author-~~  
5 ~~ity from the Interstate Commerce Commission as of~~  
6 ~~the date of enactment need not make a separate reg-~~  
7 ~~istration filing with the Department but shall be~~  
8 ~~considered to have validly registered with the De-~~  
9 ~~partment.~~

10 ~~“(2) Any carrier that does not currently have~~  
11 ~~operating authority from the Interstate Commerce~~  
12 ~~Commission and is required to file a registration~~  
13 ~~statement under subsection (a) of this section shall~~  
14 ~~file its registration statement with the Department~~  
15 ~~within 90 days of the effective date of the regula-~~  
16 ~~tions issued pursuant to this section or prior to initi-~~  
17 ~~ating operations described in subsection (a).~~

18 ~~“(3) A carrier’s registration shall remain in ef-~~  
19 ~~fect for the 5-year term without any additional filing~~  
20 ~~or renewal as long as the carrier continues to pro-~~  
21 ~~vide transportation in interstate commerce and con-~~  
22 ~~tinues to meet its financial responsibility require-~~  
23 ~~ments.~~

1           “(4) A carrier shall file or have filed for it, no-  
 2           tice of any change in the status of its financial re-  
 3           sponsibility requirements.

4           “(e) FEE SYSTEM.—The Secretary is authorized to  
 5           establish a fee system for filing registration statements  
 6           and evidence of financial responsibility, pursuant to sec-  
 7           tion 9701 of title 31, United States Code. Fees collected  
 8           under this subsection shall equal as nearly as possible the  
 9           costs of operating the registration system in the fiscal  
 10          year, except—

11           “(1) the fee for registering a motor carrier pur-  
 12          suant to this section shall not exceed \$300; and

13           “(2) the fee for filing evidence of financial re-  
 14          sponsibility pursuant to this section shall not exceed  
 15          \$10 per filing.

16          No fee shall be charged for the filing of agents for service  
 17          of process or the filing of other information relating to  
 18          financial responsibility. Fees collected under this sub-  
 19          section may be credited to the Department of Transpor-  
 20          tation appropriation account charged in proportion to the  
 21          amount expended from the account for these purposes;  
 22          and shall be available for expenditure until expended.

23           “(f) LIMITATIONS.—The Secretary shall have no au-  
 24          thority to require any registration filing from any motor  
 25          private carrier or from any carrier providing transpor-

1 tation described in section 10526 of this title as in effect  
 2 on July 1, 1995, unless such carrier also provides trans-  
 3 portation that would have been subject to section 10521  
 4 of this title as in effect on July 1, 1995.”.

5 (b) The index for subchapter III of chapter 311 is  
 6 amended by adding at the end thereof the following:

“31148. Registration”.

## 7 **TITLE V—AMENDMENTS TO** 8 **OTHER LAWS**

### 9 **SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.**

10 Section 401 of the Federal Election Campaign Act  
 11 of 1971 (2 U.S.C. 451) is amended by—

12 (1) striking “Interstate Commerce Commis-  
 13 sion,” and inserting “Intermodal Surface Transpor-  
 14 tation Board,”; and

15 (2) striking “promulgate, within ninety days  
 16 after the date of enactment of this Act,” and insert-  
 17 ing “maintain”.

### 18 **SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.**

19 Section 201 of the Agricultural Adjustment Act of  
 20 1938 (7 U.S.C. 1291) is amended by—

21 (1) striking “Interstate Commerce Commis-  
 22 sion” and inserting “Intermodal Surface Transpor-  
 23 tation Board” each place it appears;

24 (2) striking “Commission”, wherever it appears  
 25 and inserting “Transportation Board”; and

1           (3) striking “Commission’s” in subsection (b)  
2           and inserting “Transportation Board’s”.

3   **SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.**

4           Section 203(j) of the Agricultural Marketing Act of  
5   1946 (7 U.S.C. 1622(j)) is amended by striking “Inter-  
6   state Commerce Commission,” and inserting “Intermodal  
7   Surface Transportation Board”.

8   **SEC. 504. ANIMAL WELFARE ACT.**

9           Section 15(a) of the Animal Welfare Act (7 U.S.C.  
10   2145(a)) is amended by striking “Interstate Commerce  
11   Commission” and inserting “Intermodal Surface Trans-  
12   portation Board”.

13   **SEC. 505. TITLE 11, UNITED STATES CODE.**

14           (a) Section 1164 of title 11, United States Code, is  
15   amended by striking “Commission” and inserting “Inter-  
16   modal Surface Transportation Board”.

17           (b) Section 1170 of title 11, United States Code, is  
18   amended by—

19               (1) striking “Commission” the first time it ap-  
20               pears in subsection (b) and inserting “Intermodal  
21               Surface Transportation Board”; and

22               (2) striking “Commission” wherever else it ap-  
23               pears and inserting “Transportation Board”.

24           (c) Section 1172 of title 11, United States Code, is  
25   amended by—

1           (1) striking “Commission” the first time it ap-  
 2           pears in subsection (b) and inserting “Intermodal  
 3           Surface Transportation Board”; and

4           (2) striking “Commission” wherever else it ap-  
 5           pears and inserting “Transportation Board”.

6 **SEC. 506. CLAYTON ACT.**

7           The Clayton Act (15 U.S.C. 12 et seq.) is amended  
 8           by—

9           (1) striking “Interstate Commerce Commis-  
 10          sion” in the last sentence of section 7 (15 U.S.C.  
 11          18) and inserting “Intermodal Surface Transpor-  
 12          tation Board”;

13          (2) inserting a comma and “Transportation  
 14          Board,” after “such Commission” in the last sen-  
 15          tence of that section;

16          (3) striking “Interstate Commerce Commis-  
 17          sion” in the first sentence of section 11(a) (15  
 18          U.S.C. 21) and inserting “Intermodal Surface  
 19          Transportation Board”; and

20          (4) striking “Interstate Commerce Commis-  
 21          sion” in section 16 (15 U.S.C. 26) and inserting  
 22          “Intermodal Surface Transportation Board”.

23 **SEC. 507. CONSUMER CREDIT PROTECTION ACT.**

24           The Consumer Credit Protection Act (15 U.S.C.  
 25           1601 et seq.) is amended by—



1           (1) striking “Interstate Commerce Commis-  
2           sion” in section 621(b)(4) (15 U.S.C. 1681s) and in-  
3           serting “Intermodal Surface Transportation Board”;

4           (2) inserting a comma and “and part B of sub-  
5           title IV of title 49, United States Code, by the Sec-  
6           retary of Transportation with respect to any com-  
7           mon carrier subject to such part,” in section  
8           621(b)(4) (15 U.S.C. 1681s) after “those Acts”;

9           (3) striking “Interstate Commerce Commis-  
10          sion” in section 704(a)(4) (15 U.S.C. 1691e) and in-  
11          serting “Intermodal Surface Transportation Board”;

12          (4) inserting a comma and “and part B of sub-  
13          title IV of title 49, United States Code, by the Sec-  
14          retary of Transportation with respect to any com-  
15          mon carrier subject to such part” in section  
16          704(a)(4) (15 U.S.C. 1691e) after “those Acts”;

17          (5) striking “Interstate Commerce Commis-  
18          sion” in section 814(b)(4) (15 U.S.C. 1692l) and in-  
19          serting “Intermodal Surface Transportation Board”;  
20          and

21          (6) inserting a comma and “and part B of sub-  
22          title IV of title 49, United States Code, by the Sec-  
23          retary of Transportation with respect to any com-  
24          mon carrier subject to such part” in section  
25          814(b)(4) (15 U.S.C. 1692l) after “those Acts”.

1 **SEC. 508. NATIONAL TRAILS SYSTEM ACT.**

2 The National Trails System Act (16 U.S.C. 1241 et  
3 seq.) is amended by—

4 (1) striking “Interstate Commerce Commis-  
5 sion” in the first sentence of section 8(d) (16 U.S.C.  
6 1247(d)) and inserting “Intermodal Surface Trans-  
7 portation Board”;

8 (2) striking “Commission” in the last sentence  
9 of section 8(d) (16 U.S.C. 1247(d)) and inserting  
10 “Intermodal Surface Transportation Board”; and

11 (3) striking “Interstate Commerce Commis-  
12 sion” in section 9(b) (16 U.S.C. 1248(d)) and in-  
13 serting “Intermodal Surface Transportation Board”.

14 **SEC. 509. TITLE 18, UNITED STATES CODE.**

15 Section 6001 of title 18, United States Code, is  
16 amended by striking “Interstate Commerce Commission”  
17 in subsection (1) and inserting “Intermodal Surface  
18 Transportation Board”.

19 **SEC. 510. INTERNAL REVENUE CODE OF 1986.**

20 (a) Section 3231 of the Internal Revenue Code of  
21 1986 (26 U.S.C. 3231) is amended by—

22 (1) striking “Interstate Commerce Commis-  
23 sion” in subsection (a) and inserting “Intermodal  
24 Surface Transportation Board”; and

25 (2) striking subsection (g) and inserting the fol-  
26 lowing:

1       “(g) CARRIER.—For purposes of this chapter, the  
 2 term ‘carrier’ means a rail carrier providing transpor-  
 3 tation subject to chapter 105 of title 49, United States  
 4 Code.”.

5       (b)Section 7701(a) of the Internal Revenue Code of  
 6 1986 (26 U.S.C. 7701(a)) is amended by—

7           (1) striking “Federal Power Commission” in  
 8 paragraph (33)(B) and inserting “Federal Energy  
 9 Regulatory Commission”;

10          (2) striking “Interstate Commerce Commis-  
 11 sion” in paragraph (33)(C)(i) and inserting “Inter-  
 12 modal Surface Transportation Board”;

13          (3) striking “Interstate Commerce Commis-  
 14 sion” in paragraph (33)(C)(ii) with “Federal Energy  
 15 Regulatory Commission”;

16          (4) striking “Interstate Commerce Commission  
 17 under subchapter III of chapter 105” in paragraph  
 18 (33)(F) and inserting “Secretary of Transportation  
 19 under subchapter II of chapter 135”;

20          (5) striking “subchapter I of” in paragraph  
 21 (33)(G); and

22          (6) striking “subchapter I of” in the first sen-  
 23 tence of paragraph (33)(H).

1 **SEC. 511. TITLE 28, UNITED STATES CODE.**

2 (a) The heading of chapter 157 of part VI of title  
3 28, United States Code, is amended by striking “INTER-  
4 STATE COMMERCE COMMISSION” and inserting  
5 “INTERMODAL SURFACE TRANSPORTATION  
6 BOARD”.

7 (b) Section 2321 of title 28, United States Code, is  
8 amended by—

9 (1) striking “Commission’s” in the section cap-  
10 tion and inserting “Intermodal Surface Transpor-  
11 tation Board’s”; and

12 (2) striking “Interstate Commerce Commis-  
13 sion” in subsections (a) and (b) and inserting  
14 “Intermodal Surface Transportation Board”.

15 (c) Section 2323 of title 28, United States Code, is  
16 amended by—

17 (1) striking “Interstate Commerce Commis-  
18 sion” and inserting “Intermodal Surface Transpor-  
19 tation Board”; and

20 (2) striking “Commission”, wherever it appears,  
21 and inserting “Transportation Board”.

22 (d) Section 2341 of title 28, United States Code, is  
23 amended by—

24 (1) striking “Interstate Commerce Commis-  
25 sion” in paragraph (3)(A);

26 (2) striking “and” in paragraph (3)(C);

1           ~~(3) striking “Act.” in paragraph (3)(D) and in-~~  
 2           ~~serting “Act; and”; and~~

3           ~~(4) inserting after paragraph (3)(D) the follow-~~  
 4           ~~ing:~~

5                     ~~“(E) the Transportation Board, when the~~  
 6                     ~~order was entered by the Intermodal Surface~~  
 7                     ~~Transportation Board.”.~~

8           ~~(e) Section 2342 of title 28, United States Code, is~~  
 9           ~~amended by—~~

10           ~~(1) inserting “or pursuant to part B of subtitle~~  
 11           ~~IV of title 49, United States Code” at the end of~~  
 12           ~~paragraph (3)(A); and~~

13           ~~(2) striking paragraph (5) and inserting the fol-~~  
 14           ~~lowing:~~

15                     ~~“(5) all rules, regulations, or final orders of the~~  
 16                     ~~Intermodal Surface Transportation Board made~~  
 17                     ~~reviewable by section 2321 of this title; and”.~~

18   **SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORK-**  
 19                     **ER PROTECTION ACT.**

20           Section 401(b) of the Migrant and Seasonal Agricul-  
 21           tural Worker Protection Act ~~(29 U.S.C. 1841(b))~~ is  
 22           amended by—

23           ~~(1) striking “part II of the Interstate Com-~~  
 24           ~~meree Act (49 U.S.C. 301 et seq.) ; or any successor~~

1 provision of” in paragraph (2)(C) and inserting  
 2 “part B of”; and  
 3 (2) striking “part II of the Interstate Com-  
 4 merce Act (49 U.S.C. 301 et seq.), and any succes-  
 5 sor provision of” in paragraph (3) and inserting  
 6 “part B of”.

7 **SEC. 513. TITLE 39, UNITED STATES CODE.**

8 (a) Section 5005 of title 39, United States Code, is  
 9 amended by striking “Interstate Commerce Commission”  
 10 in subsection (b)(3) and inserting “Intermodal Surface  
 11 Transportation Board”.

12 (b) Section 5203 of title 39, United States Code, is  
 13 amended by—

14 (1) striking subsection (f) and redesignating  
 15 subsection (g) as subsection (f); and

16 (2) striking “Commission” in subsection (f), as  
 17 redesignated, and inserting “Intermodal Surface  
 18 Transportation Board”.

19 (c) Section 5207 of title 39, United States Code, is  
 20 amended by—

21 (1) striking “Interstate Commerce Commis-  
 22 sion”, in both the section caption and subsection (a),  
 23 and inserting “Intermodal Surface Transportation  
 24 Board”; and

1           (2) striking “Commission” wherever it appears  
2           and inserting “Transportation Board”.

3           (d) Section 5208 of title 39, United States Code, is  
4 amended by—

5           (1) striking “Commission’s” in subsection (a)  
6           and inserting “Transportation Board’s”; and

7           (2) striking “Commission” wherever it appears  
8           and inserting “Transportation Board”.

9           (e) The index for chapter 52 of title 39, United States  
10 Code, is amended by striking out the items relating to sec-  
11 tion 5207 and inserting in lieu thereof the following:

“5207. Intermodal Surface Transportation Board to fix  
rates.” .....

12 **SEC. 514. ENERGY POLICY ACT OF 1992.**

13           Section 1340 of the Energy Policy Act of 1992 (42  
14 U.S.C. 13369) is amended by striking “Interstate Com-  
15 merce Commission” in subsections (a) and (d) and insert-  
16 ing “Intermodal Surface Transportation Board”.

17 **SEC. 515. RAILWAY LABOR ACT.**

18           Section 151 of the Railway Labor Act (45 U.S.C.  
19 151) is amended by—

20           (1) striking “any express company, sleeping-car  
21           company, carrier by railroad, subject to” in the first  
22           paragraph and inserting “any railroad subject to”;

1           (2) striking “Interstate Commerce Commis-  
 2           sion” in the first and fifth paragraphs and inserting  
 3           “Intermodal Surface Transportation Board”; and  
 4           (3) striking “Commission”, wherever it appears  
 5           in the fifth paragraph and inserting “Intermodal  
 6           Surface Transportation Board”.

7 **SEC. 516. RAILROAD RETIREMENT ACT OF 1974.**

8           Section 1 of the Railroad Retirement Act of 1974 (45  
 9 U.S.C. 231) is amended by—

10           (1) striking subsection (a)(1)(i) and inserting:  
 11           “(i) any carrier by railroad subject to chapter  
 12           105 of title 49, United States Code;”;  
 13           (2) striking “Interstate Commerce Commis-  
 14           sion” in subsection (a)(2)(ii) and inserting “Inter-  
 15           modal Surface Transportation Board”;  
 16           (3) striking “Board,” in subsection (a)(2)(ii)  
 17           and inserting “Railroad Retirement Board,”; and  
 18           (4) inserting “Intermodal Surface Transpor-  
 19           tation Board,” after Interstate Commerce Commis-  
 20           sion,” in the first sentence of subsection (c).

21 **SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.**

22           (a) Section 1 of the Railroad Unemployment Insur-  
 23           ance Act (45 U.S.C. 351) is amended by—

24           (1) striking “Interstate Commerce Commis-  
 25           sion” in the second sentence of paragraph (a) and



1 inserting “Intermodal Surface Transportation  
2 Board”;

3 ~~(2) striking “Board,”~~ in the second sentence of  
4 paragraph (a) and inserting “Railroad Retirement  
5 Board,”; and

6 ~~(3) striking paragraph (b) and inserting the fol-~~  
7 ~~lowing:~~

8 “(b) The term ‘carrier’ means a carrier by railroad  
9 subject to chapter 105 of title 49, United States Code.”.

10 (b) Section 2(h)(3) of the Railroad Unemployment  
11 Insurance Act (45 U.S.C. 352(h)(3)) is amended by—

12 ~~(1) striking “Interstate Commerce Commis-~~  
13 ~~sion” and inserting “Intermodal Surface Transpor-~~  
14 ~~tation Board”;~~ and

15 ~~(2) striking “Board,” and inserting “Railroad~~  
16 ~~Retirement Board.”.~~

17 **SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.**

18 Section 3 of the Emergency Rail Services Act of 1970  
19 ~~(45 U.S.C. 662)~~ is amended by striking “Commission”,  
20 wherever it appears in subsections (a) and (b), and insert-  
21 ing “Intermodal Surface Transportation Board”.

22 **SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.**

23 (a) Section 304 of the Regional Rail Reorganization  
24 Act of 1973 ~~(45 U.S.C. 744)~~ is amended by—

1           (1) striking “Commission” in subsection  
2           (d)(1)(A) and inserting “Intermodal Surface Trans-  
3           portation Board”; and

4           (2) striking “Commission” wherever else it ap-  
5           pears in paragraph (1) or (3) of subsection (d), and  
6           in subsections (f) and (g), and inserting “Transpor-  
7           tation Board”.

8           (b) Section 305 of the Regional Rail Reorganization  
9           Act of 1973 (45 U.S.C. 745) is amended by—

10           (1) striking “or the Association” and “or the  
11           Association, as the case may be,” in the first sen-  
12           tence of subsection (a);

13           (2) striking the second sentence of subsection  
14           (a);

15           (3) striking the third sentence of subsection (a)  
16           and inserting “A proposal shall state and describe  
17           any transactions proposed; the rail properties in-  
18           volved; the parties to such transactions; the financial  
19           and other terms of such transactions; and the pur-  
20           poses of the chapter or the goals of the final system  
21           plan intended to be effectuated by such trans-  
22           actions.”;

23           (4) striking the last sentence of subsection (a)  
24           and inserting “Upon the development of a proposal,  
25           the Secretary shall publish a summary of such pro-

posals in the Federal Register, and shall afford interested persons (including the Corporation when property is to be transferred to or from the Corporation) an opportunity to comment thereon.”;

(5) striking “Association” wherever it appears in subsection (b) and inserting “Secretary”;

(6) striking “Commission”, in the subsection caption and first sentence of subsection (c) and inserting “Intermodal Surface Transportation Board”;

(7) striking “Commission” wherever else it appears in subsection (c) and inserting “Transportation Board”;

(8) striking “Association” wherever it appears in the first sentence of subsection (d)(1) and inserting “Secretary”;

(9) striking “Commission’s” in the first and last sentences of subsection (d)(1) and inserting “Transportation Board’s”;

(10) striking the second sentence of subsection (d)(1);

(11) striking “the Association (in the case of a proposal developed by the Association) or” and “(in the case of a proposal developed by the Secretary)” in the third sentence of subsection (d)(2);

1           (12) striking “either the Association or” in sub-  
2       section (d)(3);

3           (13) striking “evaluation by the Association,  
4       the Secretary, or the Commission” in the first sen-  
5       tence of subsection (d)(5) and inserting “the Sec-  
6       retary or the Transportation Board”; and

7           (14) striking “Association” wherever it appears  
8       in subsection (e) and inserting “Secretary”.

9       **SEC. 520. ALASKA RAILROAD TRANSFER ACT OF 1982.**

10       Section 608 of the Alaska Railroad Transfer Act of  
11       1982 (45 U.S.C. 1207) is amended by striking “Interstate  
12       Commerce Commission” wherever it appears in sub-  
13       sections (a) and (c) and inserting “Intermodal Surface  
14       Transportation Board”.

15       **SEC. 521. MERCHANT MARINE ACT, 1920.**

16       (a) Section 8 of Merchant Marine Act, 1920 (46  
17       U.S.C. App. 867) is amended by—

18           (1) striking “Interstate Commerce Commis-  
19       sion” in both places that it appears and inserting  
20       “Intermodal Surface Transportation Board”; and

21           (2) striking “commission” and inserting  
22       “board”.

23       (b) Section 28 of the Merchant Marine Act, 1920 (46  
24       U.S.C. App. 884) is amended by—

1           (1) striking “Interstate Commerce Commis-  
 2           sion” where it first appears and inserting “Inter-  
 3           modal Surface Transportation Board”; and

4           (2) striking “Interstate Commerce Commis-  
 5           sion” wherever else it appears and inserting “Trans-  
 6           portation Board”.

7   **SEC. 522. SERVICE CONTRACT ACT OF 1965.**

8           Section 356(3) of the Service Contract Act of 1965  
 9   (41 U.S.C. 356(3)), is amended by striking “where pub-  
 10   lished tariff rates are in effect”.

11   **SEC. 523. FEDERAL AVIATION ADMINISTRATION AUTHOR-**  
 12                           **IZATION ACT OF 1994.**

13           Section 601(d) of the Federal Aviation Administra-  
 14   tion Authorization Act of 1994 (Pub. L. 103-305) is  
 15   amended by striking all after “subsection (c)” and insert-  
 16   ing “shall not take effect as long as section 11501(g)(2)  
 17   of title 49, United States Code, applies to that State.”.

18           **TITLE VI—AUTHORIZATION**

19   **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

20           For the purpose of carrying out the provisions of this  
 21   Act, there are authorized to be appropriated—

22           (1) for the closedown of the Interstate Com-  
 23           merce Commission and severance costs for Interstate  
 24           Commerce Commission personnel, \$6,493,400;

1           (2) for the operations of the Interstate Com-  
 2       merce Commission for the remainder of fiscal year  
 3       1995 and fiscal year 1996, \$8,395,000; and

4           (3) for the operations of the Intermodal Surface  
 5       Transportation Board, \$12,000,000 for each of the  
 6       fiscal years 1996, 1997, and 1998.

## 7       **TITLE VII—EFFECTIVE DATE**

### 8       **SEC. 701. EFFECTIVE DATE.**

9       Except as otherwise expressly provided, this Act and  
 10      the amendments made by this Act shall take effect on Jan-  
 11      uary 1, 1996.

### 12      **SECTION 1. SHORT TITLE.**

13      *This Act may be cited as the “Interstate Commerce*  
 14      *Commission Sunset Act of 1995”.*

### 15      **SEC. 2. AMENDMENT OF TITLE 49.**

16      *Except as otherwise expressly provided, whenever in*  
 17      *this Act an amendment or repeal is expressed in terms of*  
 18      *an amendment to, or repeal of, a section or other provision,*  
 19      *the reference shall be considered to be made to a section or*  
 20      *other provision of title 49, United States Code.*

### 21      **SEC. 3. TABLE OF SECTIONS.**

22      *The table of sections for this Act is as follows:*

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1 ***TITLE I—TERMINATION OF THE***  
2 ***INTERSTATE COMMERCE***  
3 ***COMMISSION AND FEDERAL***  
4 ***MARITIME COMMISSION; RE-***  
5 ***PEAL OF OBSOLETE AND UN-***  
6 ***NECESSARY PROVISIONS OF***  
7 ***LAW***

8 ***Subtitle A—Terminations***

9 ***SEC. 101. AGENCY TERMINATIONS.***

10 (a) *INTERSTATE COMMERCE COMMISSION.*—Upon the  
11 *transfer of functions under this Act to the Intermodal Sur-*  
12 *face Transportation Board and to the Secretary of Trans-*  
13 *portation, the Interstate Commerce Commission shall ter-*  
14 *minate.*

1       (b) *FEDERAL MARITIME COMMISSION*.—Effective Jan-  
 2       uary 1, 1997, the *Federal Maritime Commission* shall ter-  
 3       minate.

4       **SEC. 102. SAVINGS PROVISIONS.**

5       (a) *IN GENERAL*.—All orders, determinations, rules,  
 6       regulations, licenses, and privileges which are in effect at  
 7       the time this Act takes effect, shall continue in effect accord-  
 8       ing to their terms, insofar as they involve regulatory func-  
 9       tions to be retained by this Act, until modified, terminated,  
 10      superseded, set aside, or revoked in accordance with law by  
 11      the Transportation Board (to the extent they involve the  
 12      functions transferred to the Intermodal Surface Transpor-  
 13      tation Board under this Act) or by the Secretary (to the  
 14      extent they involve functions transferred to the Secretary  
 15      under this Act), or by a court of competent jurisdiction,  
 16      or by operation of law.

17      (b) *PROCEEDINGS; APPLICATIONS*.—

18           (1) *The provisions of this Act shall not affect*  
 19      *any proceedings or any application for any license*  
 20      *pending before the Interstate Commerce Commission*  
 21      *at the time this Act takes effect, insofar as those func-*  
 22      *tions are retained and transferred by this Act; but*  
 23      *such proceedings and applications, to the extent that*  
 24      *they relate to functions so transferred, shall be contin-*  
 25      *ued. Orders shall be issued in such proceedings, ap-*

1        *peals shall be taken therefrom, and payments shall be*  
2        *made pursuant to such orders, as if this Act had not*  
3        *been enacted; and orders issued in any such proceed-*  
4        *ings shall continue in effect until modified, termi-*  
5        *nated, superseded, or revoked by a duly authorized of-*  
6        *ficial, by a court of competent jurisdiction, or by op-*  
7        *eration of law. Nothing in this subsection shall be*  
8        *deemed to prohibit the discontinuance or modification*  
9        *of any such proceeding under the same terms and*  
10       *conditions and to the same extent that such proceed-*  
11       *ing could have been discontinued or modified if this*  
12       *Act had not been enacted.*

13            *(2) The Transportation Board and the Secretary*  
14        *are authorized to provide for the orderly transfer of*  
15        *pending proceedings from the Interstate Commerce*  
16        *Commission.*

17        *(c) ACTIONS IN LAW COMMENCED BEFORE ENACT-*  
18        *MENT.—Except as provided in subsection (e)—*

19            *(1) the provisions of this Act shall not affect*  
20        *suits commenced prior to the date this Act takes effect,*  
21        *and,*

22            *(2) in all such suits, proceedings shall be had,*  
23        *appeals taken, and judgments rendered in the same*  
24        *manner and effect as if this Act had not been enacted.*

1       (d) *CONTINUANCE OF ACTIONS AGAINST OFFICERS.*—

2   *No suit, action, or other proceeding commenced by or*  
 3   *against any officer in his official capacity as an officer of*  
 4   *the Interstate Commerce Commission shall abate by reason*  
 5   *of the enactment of this Act. No cause of action by or*  
 6   *against the Interstate Commerce Commission, or by or*  
 7   *against any officer thereof in his official capacity, shall*  
 8   *abate by reason of enactment of this Act.*

9       (e) *SUBSTITUTION OF TRANSPORTATION BOARD AS*

10 *PARTY.*—*Any suit by or against the Interstate Commerce*  
 11 *Commission begun before enactment of this Act shall be con-*  
 12 *tinued, insofar as it involves a function retained and trans-*  
 13 *ferred under this Act, with the Transportation Board (to*  
 14 *the extent the suit involves functions transferred to the*  
 15 *Transportation Board under this Act) or the Secretary (to*  
 16 *the extent the suit involves functions transferred to the Sec-*  
 17 *retary under this Act) substituted for the Commission.*

18   **SEC. 103. REFERENCES TO THE ICC IN OTHER LAWS.**

19       (a) *FUNCTIONS.*—*With respect to any functions trans-*  
 20 *ferred by this Act and exercised after the effective date of*  
 21 *the Interstate Commerce Commission Sunset Act of 1995,*  
 22 *reference in any other Federal law to the Interstate Com-*  
 23 *merce Commission shall be deemed to refer to—*

1           (1) *the Intermodal Surface Transportation*  
 2           *Board, insofar as it involves functions transferred to*  
 3           *the Transportation Board by this Act; and*

4           (2) *the Secretary of Transportation, insofar as it*  
 5           *involves functions transferred to the Secretary by this*  
 6           *Act.*

7           (b) *OTHER REFERENCES.*—*Any other reference in any*  
 8           *law, regulation, official publication, or other document to*  
 9           *the Interstate Commerce Commission as an agency of the*  
 10           *United States Government shall be treated as a reference*  
 11           *to the Transportation Board.*

12   **SEC. 104. TRANSFER OF FUNCTIONS.**

13           (a) *TO TRANSPORTATION BOARD.*—*Except as other-*  
 14           *wise provided in this Act and the amendments made by*  
 15           *this Act, those personnel, property, and records employed,*  
 16           *used, held, available, or to be made available in connection*  
 17           *with a function transferred to the Transportation Board*  
 18           *by this Act shall be transferred to the Transportation Board*  
 19           *for use in connection with the functions transferred, and*  
 20           *unexpended balances of appropriations, allocations, and*  
 21           *other funds of the Interstate Commerce Commission shall*  
 22           *also be transferred to the Transportation Board.*

23           (b) *TO SECRETARY.*—*Except as otherwise provided in*  
 24           *this Act and the amendments made by this Act, those per-*  
 25           *sonnel, property, and records employed, used, held, avail-*



1 *able, or to be made available in connection with a function*  
 2 *transferred to the Secretary by this Act shall be transferred*  
 3 *to the Secretary for use in connection with the functions*  
 4 *transferred.*

5 ***SEC. 105. REFERENCES TO THE FMC IN OTHER LAWS.***

6 *Effective January 1, 1997, reference in any other Fed-*  
 7 *eral law to the Federal Maritime Commission shall be*  
 8 *deemed to refer to the Transportation Board.*

9 ***Subtitle B—Repeal of Obsolete, Etc.,***  
 10 ***Provisions***

11 ***SEC. 121. REPEAL OF PROVISIONS.***

12 *The following provisions are repealed:*

13 *(1) Section 10101 (relating to transportation*  
 14 *policy) and the item relating thereto in the table of*  
 15 *sections of chapter 101 are repealed.*

16 *(2) Section 10322 (relating to Commission ac-*  
 17 *tion and appellate procedure in nonrail proceedings)*  
 18 *and the item relating thereto in the table of sections*  
 19 *of chapter 103 are repealed.*

20 *(3) Section 10326 (relating to limitations in*  
 21 *rulemaking proceedings related to rail carriers) and*  
 22 *the item relating thereto in the table of sections of*  
 23 *chapter 103 are repealed.*

24 *(4) Section 10327 (relating to Commission ac-*  
 25 *tion and appellate procedure in rail carrier proceed-*

1        *ings) and the item relating thereto in the table of sec-*  
 2        *tions of chapter 103 are repealed.*

3            *(5) Section 10328 (relating to intervention) and*  
 4        *the item relating thereto in the table of sections of*  
 5        *chapter 103 are repealed.*

6            *(6) Subchapter III of chapter 103 (relating to*  
 7        *joint boards) and the items relating thereto in the*  
 8        *table of sections of such chapter are repealed.*

9            *(7)(A) Subchapter IV of chapter 103 (relating to*  
 10       *Rail Services Planning Office) and the items relating*  
 11       *thereto in the table of sections of such chapter are re-*  
 12       *pealed.*

13           *(B) Section 24505(b) of title 49, United States*  
 14       *Code, is amended to read as follows:*

15        *“(b) OFFER REQUIREMENTS.—A commuter authority*  
 16       *making an offer under subsection (a)(2) of this section shall*  
 17       *show that it has obtained access to all rail property nec-*  
 18       *essary to provide the additional commuter rail passenger*  
 19       *transportation.”.*

20           *(8) Subchapter V of chapter 103 (relating to Of-*  
 21       *fice of Rail Public Counsel) and the items relating*  
 22       *thereto in the table of sections of such chapter are re-*  
 23       *pealed.*

1           (9) *Section 10502 (relating to express carrier*  
2           *transportation) and the item relating thereto in the*  
3           *table of sections of chapter 105 are repealed.*

4           (10) *Section 10504 (relating to exempt rail mass*  
5           *transportation) and the item relating thereto in the*  
6           *table of sections of such chapter are repealed.*

7           (11) *Subchapter II, III, and IV of chapter 105*  
8           *(relating to freight forwarder service) and the items*  
9           *relating thereto in the table of sections of such chapter*  
10          *are repealed.*

11          (12) *Section 10705a (relating to joint rate sur-*  
12          *charges and cancellations) and the item relating*  
13          *thereto in the table of sections of chapter 107 are re-*  
14          *pealed.*

15          (13) *Section 10710 (relating to elimination of*  
16          *discrimination against recyclable materials) and the*  
17          *item relating thereto in the table of sections of chapter*  
18          *107 are repealed.*

19          (14) *Section 10711 (relating to effect of certain*  
20          *sections on rail rates and practices) and the item re-*  
21          *lating thereto in the table of sections of chapter 107*  
22          *are repealed.*

23          (15) *Section 10712 (relating to inflation-based*  
24          *rate increases) and the item relating thereto in the*  
25          *table of sections of chapter 107 are repealed.*

1           (16) *Subchapter II (relating to special cir-*  
2           *cumstances) of chapter 107 (except for sections 10721*  
3           *and 10730) and the items relating thereto in the table*  
4           *of sections of chapter 107 (except for the subchapter*  
5           *caption and the items relating to sections 10721 and*  
6           *10730) are repealed.*

7           (17) *Section 10743 (relating to payment of*  
8           *rates) and the item relating thereto in the table of sec-*  
9           *tions of chapter 107 are repealed.*

10          (18) *Section 10746 (relating to transportation of*  
11          *commodities manufactured or produced by a rail car-*  
12          *rier) and the item relating thereto in the table of sec-*  
13          *tions of chapter 107 are repealed.*

14          (19) *Section 10748 (relating to transportation of*  
15          *livestock by rail carrier) and the item relating thereto*  
16          *in the table of sections of chapter 107 are repealed.*

17          (20) *Section 10749 (relating to exchange of serv-*  
18          *ices and limitation on use of common carriers by*  
19          *household goods freight forwarders) and the item re-*  
20          *lating thereto in the table of sections of chapter 107*  
21          *are repealed.*

22          (21) *Section 10751 (relating to business enter-*  
23          *tainment expenses) and the item relating thereto in*  
24          *the table of sections of chapter 107 are repealed.*

1           (22) *Section 10764 (relating to arrangements be-*  
2           *tween carriers) and the item relating thereto in the*  
3           *table of sections of chapter 107 are repealed.*

4           (23) *Section 10765 (relating to water transpor-*  
5           *tation under arrangements with certain other car-*  
6           *riers) and the item relating thereto in the table of sec-*  
7           *tions of chapter 107 are repealed.*

8           (24) *Section 10766 (relating to freight forwarder*  
9           *traffic agreements) and the item relating thereto in*  
10          *the table of sections of chapter 107 are repealed.*

11          (25) *Section 10767 (relating to billing and col-*  
12          *lecting practices) and the item relating thereto in the*  
13          *table of sections of chapter 107 are repealed.*

14          (26) *Subchapter V of chapter 107 (relating to*  
15          *valuation of property) and the items relating thereto*  
16          *in the table of sections of chapter 107 are repealed.*

17          (27)(A) *Section 10908 (relating to discontinuing*  
18          *or changing interstate train or ferry transportation)*  
19          *and the item relating thereto in the table of sections*  
20          *of chapter 109 are repealed.*

21          (B) *Subsection (d) of section 24705 of title 49,*  
22          *United States Code, is repealed.*

23          (28) *Section 10909 (relating to discontinuing or*  
24          *changing train or ferry transportation in one State)*

1        *and the item relating thereto in the table of sections*  
2        *of chapter 109 are repealed.*

3            (29) *Subchapter II (relating to other carriers*  
4        *and motor carrier brokers) of chapter 109 and the*  
5        *items relating thereto in the table of sections of chap-*  
6        *ter 109 are repealed.*

7            (30) *Section 11102 (relating to classification of*  
8        *carriers) and the item relating thereto in the table of*  
9        *sections of chapter 111 are repealed.*

10          (31) *Section 11105 (relating to protective serv-*  
11        *ices) and the item relating thereto in the table of sec-*  
12        *tions of chapter 111 are repealed.*

13          (32) *Section 11106 (relating to identification of*  
14        *motor vehicles) and the item relating thereto in the*  
15        *table of sections of chapter 111 are repealed.*

16          (33) *Section 11107 (relating to leased motor ve-*  
17        *hicles) and the item relating thereto in the table of*  
18        *sections of chapter 111 are repealed.*

19          (34) *Section 11108 (relating to water carriers*  
20        *subject to unreasonable discrimination in foreign*  
21        *transportation) and the item relating thereto in the*  
22        *table of sections of chapter 111 are repealed.*

23          (35) *Section 11109 (relating to loading and un-*  
24        *loading motor vehicles) and the item relating thereto*  
25        *in the table of sections of chapter 111 are repealed.*

1           (36) *Section 11110 (relating to household goods*  
2           *carrier operations) and the item relating thereto in*  
3           *the table of sections of chapter 111 are repealed.*

4           (37) *Section 11111 (relating to use of citizen*  
5           *band radios on buses) and the item relating thereto*  
6           *in the table of sections of chapter 111 are repealed.*

7           (38) *Section 11126 (distribution of coal cars)*  
8           *and the item relating thereto in the table of sections*  
9           *of chapter 111 are repealed.*

10          (39) *Section 11127 (relating to service of house-*  
11          *hold freight forwarders) and the item relating thereto*  
12          *in the table of sections of chapter 111 are repealed.*

13          (40) *Section 11142 (relating to uniform account-*  
14          *ing system for motor carriers) and the item relating*  
15          *thereto in the table of sections of chapter 111 are re-*  
16          *pealed.*

17          (41) *Section 11161 (relating to railroad account-*  
18          *ing principles board) and the item relating thereto in*  
19          *the table of sections of chapter 111 are repealed.*

20          (42) *Section 11162 (relating to cost accounting*  
21          *principles) and the item relating thereto in the table*  
22          *of sections of chapter 111 are repealed.*

23          (43) *Section 11163 (relating to implementation*  
24          *of cost accounting principles) and the item relating*

1       *thereto in the table of sections of chapter 111 are re-*  
2       *pealed.*

3           (44) *Section 11164 (relating to certification of*  
4       *rail carrier cost accounting systems) and the item re-*  
5       *lating thereto in the table of sections of chapter 111*  
6       *are repealed.*

7           (45) *Section 11167 (relating to report) and the*  
8       *item relating thereto in the table of sections of chapter*  
9       *111 are repealed.*

10          (46) *Section 11168 (relating to authorization of*  
11       *appropriations) and the item relating thereto in the*  
12       *table of sections of chapter 111 are repealed.*

13          (47) *Section 11304 (relating to security interest*  
14       *in certain motor vehicles) and the item relating there-*  
15       *to in the table of sections of chapter 113 are repealed.*

16          (48) *Section 11321 (relating to limitation on*  
17       *ownership of certain water carriers) and the item re-*  
18       *lating thereto in the table of sections for chapter 113*  
19       *are repealed.*

20          (49) *Section 11323 (relating to limitation on*  
21       *ownership of other carriers by household goods freight*  
22       *forwarders) and the item relating thereto in the table*  
23       *of sections for chapter 113 are repealed.*

24          (50) *Section 11345a (relating to motor carrier*  
25       *procedures for consolidation, merger, and acquisition*



1       of control) and the item relating thereto in the table  
2       of sections of chapter 113 are repealed.

3           (51) Section 11346 (relating to expedited rail  
4       carrier procedures for consolidation, merger, and ac-  
5       quisition of control) and the item relating thereto in  
6       the table of sections of chapter 113 are repealed.

7           (52) Section 11349 (relating to temporary oper-  
8       ating approval for transactions involving motor and  
9       water carriers) and the item relating thereto in the  
10      table of sections of chapter 113 are repealed.

11          (53) Section 11350 (relating to responsibility of  
12      the Secretary of Transportation in certain trans-  
13      actions) and the item relating thereto in the table of  
14      sections of chapter 113 are repealed.

15          (54) Subchapter IV of chapter 113 (relating to  
16      financial structure) and the items relating thereto in  
17      the table of sections of chapter 113 are repealed.

18          (55) Section 11502 (relating to conferences and  
19      joint hearings with State authorities) and the item re-  
20      lating thereto in the table of sections of chapter 115  
21      are repealed.

22          (56) Section 11503a (tax discrimination against  
23      motor carrier transportation property) and the item  
24      relating thereto in the table of sections of chapter 115  
25      are repealed.

1           (57) *Section 11505 (relating to State action to*  
2           *enjoin carriers from certain actions) and the item re-*  
3           *lating thereto in the table of sections of chapter 115*  
4           *are repealed.*

5           (58) *Section 11506 (relating to registration of*  
6           *motor carriers by a State) and the item relating*  
7           *thereto in the table of sections of chapter 115 are re-*  
8           *pealed.*

9           (59) *Section 11507 (relating to prison-made*  
10          *property governed by State law) and the item relating*  
11          *thereto in the table of sections of chapter 115 are re-*  
12          *pealed.*

13          (60) *Section 11704 (relating to action by a pri-*  
14          *vate person to enjoin abandonment of service) and the*  
15          *item relating thereto in the table of sections of chapter*  
16          *117 are repealed.*

17          (61) *Section 11708 (relating to private enforce-*  
18          *ment) and the item relating thereto in the table of sec-*  
19          *tions of chapter 117 are repealed.*

20          (62) *Section 11709 (relating to liability for issu-*  
21          *ance of securities by certain carriers) and the item re-*  
22          *lating thereto in the table of sections of chapter 117*  
23          *are repealed.*

24          (63) *Section 11711 (relating to dispute settle-*  
25          *ment program for household goods carriers) and the*

1        *item relating thereto in the table of sections of chapter*  
2        *117 are repealed.*

3            (64) *Section 11712 (relating to tariff reconcili-*  
4        *ation rules for motor common carriers of property)*  
5        *and the item relating thereto in the table of sections*  
6        *of chapter 117 are repealed.*

7            (65) *Section 11902a (relating to penalties for*  
8        *violations of rules relating to loading and unloading*  
9        *motor vehicles) and the item relating thereto in the*  
10       *table of sections of chapter 119 are repealed.*

11           (66) *Section 11905 (relating to transportation of*  
12        *passengers without charge) and the item relating*  
13        *thereto in the table of sections of chapter 119 are re-*  
14        *pealed.*

15           (67) *Section 11906 (relating to evasion of regula-*  
16        *tion of motor carriers and brokers) and the item re-*  
17        *lating thereto in the table of sections of chapter 119*  
18        *are repealed.*

19           (68) *Section 11908 (relating to abandonment of*  
20        *service by household goods freight forwarders) and the*  
21        *item relating thereto in the table of sections of chapter*  
22        *119 are repealed.*

23           (69) *Section 11911 (relating to issuance of secu-*  
24        *rities, etc.) and the item relating thereto in the table*  
25        *of sections of chapter 119 are repealed.*

1           (70) Section 11913a (relating to accounting  
2           principles violations) and the item relating thereto in  
3           the table of sections of chapter 119 are repealed.

4           (71) Section 11917 (relating to weight-bumping  
5           in household goods transportation) and the item relat-  
6           ing thereto in the table of sections of chapter 119 are  
7           repealed.

8   **SEC. 122. COVERAGE OF CERTAIN ENTITIES UNDER OTHER,**  
9                           **UNRELATED ACTS NOT AFFECTED.**

10       Notwithstanding any provision of this Act, an entity  
11       that is, or is treated as, an employer under the Railroad  
12       Retirement Act, the Railroad Unemployment Insurance  
13       Act, or the Railroad Retirement Tax Act under subtitle IV  
14       of title 49, United States Code, as in effect on the day before  
15       the date of enactment of this Act, shall continue to be cov-  
16       ered as employers under those Acts.

17   **TITLE     II—INTERMODAL     SUR-**  
18       **FACE               TRANSPORTATION**  
19       **BOARD**  
20           **Subtitle A—Organization**

21   **SEC. 201. AMENDMENT TO SUBCHAPTER I.**

22       (a) AMENDMENT.—Subchapter I of chapter 103 is  
23       amended to read as follows:

## 1           “SUBCHAPTER I—ESTABLISHMENT

2    **“§ 10301. Establishment of Transportation Board**

3           “(a) *ESTABLISHMENT.*—*There is hereby established*  
4 *within the Department of Transportation the Intermodal*  
5 *Surface Transportation Board.*

6           “(b) *MEMBERSHIP.*—(1) *Members of the Transpor-*  
7 *tation Board shall be appointed by the President, by and*  
8 *with the advice and consent of the Senate. The Transpor-*  
9 *tation Board shall consist of 3 members until January 1,*  
10 *1997, not more than 2 of whom shall be members of the*  
11 *same political party. Beginning on January 1, 1997, the*  
12 *Transportation Board shall consist of 5 members, no more*  
13 *than 3 of whom shall be members of the same political*  
14 *party.*

15          “(2) *At any given time, at least 2 members of the*  
16 *Transportation Board shall be individuals with profes-*  
17 *sional standing and demonstrated knowledge in the fields*  
18 *of rail or motor transportation or transportation regulation*  
19 *or agriculture, and at least 1 member shall be an individual*  
20 *with professional or business experience in the private sec-*  
21 *tor. Effective January 1, 1997, at least 2 members shall*  
22 *be individuals with professional standing and demonstrated*  
23 *knowledge in the fields of maritime transportation or its*  
24 *regulation.*

1       “(3) *The term of each member of the Transportation*  
2 *Board shall be 5 years and shall begin when the term of*  
3 *the predecessor of that member ends. An individual ap-*  
4 *pointed to fill a vacancy occurring before the expiration of*  
5 *the term for which the predecessor of that individual was*  
6 *appointed, shall be appointed for the remainder of that*  
7 *term. When the term of office of a member ends, the member*  
8 *may continue to serve until a successor is appointed and*  
9 *qualified, but for a period not to exceed 1 year. The Presi-*  
10 *dent may remove a member for neglect of duty or malfea-*  
11 *sance in office.*

12       “(4)(A) *On the effective date of this section, the mem-*  
13 *bers of the Interstate Commerce Commission shall become*  
14 *members of the Transportation Board, to serve for a period*  
15 *of time equal to the remainder of the term for which they*  
16 *were originally appointed to the Interstate Commerce Com-*  
17 *mission.*

18       “(B) *Effective January 1, 1997, two Federal Maritime*  
19 *Commission commissioners shall become members of the*  
20 *Board to serve terms expiring December 31, 1997, and De-*  
21 *cember 31, 2000. The two members shall be selected in order*  
22 *of the expiration date of their Commission term, beginning*  
23 *with the term having the latest expiration date; provided,*  
24 *however, that the two members added under this subsection*  
25 *may not be from the same political party. The longer Board*

1 *term shall be filled by the member having the later Federal*  
 2 *Maritime Commission term expiration date. Effective Jan-*  
 3 *uary 1, 1997, the rights of any Federal Maritime Commis-*  
 4 *sion commissioner other than those designated under this*  
 5 *paragraph to remain in office is terminated.*

6       “(5) *No individual may serve as a member of the*  
 7 *Transportation Board for more than 2 terms. In the case*  
 8 *of an individual appointed to fill a vacancy occurring be-*  
 9 *fore the expiration of the term for which the predecessor of*  
 10 *that individual was appointed, such individual may not*  
 11 *be appointed for more than 1 additional term.*

12       “(6) *A member of the Transportation Board may not*  
 13 *have a pecuniary interest in, hold an official relation to,*  
 14 *or own stock in or bonds of, a carrier providing transpor-*  
 15 *tation by any mode and may not engage in another busi-*  
 16 *ness, vocation, or employment.*

17       “(7) *A vacancy in the membership of the Transpor-*  
 18 *tation Board does not impair the right of the remaining*  
 19 *members to exercise all of the powers of the Transportation*  
 20 *Board. The Transportation Board may designate a member*  
 21 *to act as Chairman during any period in which there is*  
 22 *no Chairman designated by the President.*

23       “(c) *CHAIRMAN.—(1) There shall be at the head of the*  
 24 *Transportation Board a Chairman, who shall be designated*  
 25 *by the President from among the members of the Transpor-*

1 *tation Board. The Transportation Board shall be adminis-*  
2 *tered under the supervision and direction of the Chairman.*  
3 *The Chairman shall receive compensation at the rate pre-*  
4 *scribed for level III of the Executive Schedule under section*  
5 *5314 of title 5.*

6       “(2) *Subject to the general policies, decisions, findings,*  
7 *and determinations of the Transportation Board the Chair-*  
8 *man shall be responsible for administering the Transpor-*  
9 *tation Board. The Chairman may delegate the powers*  
10 *granted under this paragraph to an officer, employee, or*  
11 *office of the Transportation Board. The Chairman shall—*

12               “(A) *appoint and supervise, other than regular*  
13 *and full time employees in the immediate offices of*  
14 *another member, the officers and employees of the*  
15 *Transportation Board, including attorneys to provide*  
16 *legal aid and service to the Transportation Board*  
17 *and its members, and to represent the Transportation*  
18 *Board in any case in court;*

19               “(B) *appoint the heads of major offices with the*  
20 *approval of the Transportation Board;*

21               “(C) *distribute Transportation Board business*  
22 *among officers and employees and offices of the*  
23 *Transportation Board;*

24               “(D) *prepare requests for appropriations for the*  
25 *Transportation Board and submit those requests to*



1       *the President and Congress with the prior approval*  
 2       *of the Transportation Board; and*

3               “(E) *supervise the expenditure of funds allocated*  
 4       *by the Transportation Board for major programs and*  
 5       *purposes.*

6       **“§ 10302. Functions**

7               “(a) *INTERSTATE COMMERCE COMMISSION FUNC-*  
 8       *TIONS.—Except as otherwise provided in the Interstate*  
 9       *Commerce Commission Sunset Act of 1995, or the amend-*  
 10       *ments made thereby, the Transportation Board shall per-*  
 11       *form all functions that, immediately before the effective date*  
 12       *of such Act, were functions of the Interstate Commerce Com-*  
 13       *mission or were performed by any officer or employee of*  
 14       *the Interstate Commerce Commission in the capacity as*  
 15       *such officer or employee.*

16              “(b) *FEDERAL MARITIME COMMISSION FUNCTIONS.—*  
 17       *On January 1, 1997, the Transportation Board shall per-*  
 18       *form all functions that, on that date, were functions of the*  
 19       *Federal Maritime Commission or were performed by any*  
 20       *officer or employee of the Federal Maritime Commission in*  
 21       *the capacity as such officer or employee.*

22       **“§ 10303. Administrative provisions**

23              “(a) *EXECUTIVE REORGANIZATION.—For purposes of*  
 24       *chapter 9 of title 5, United States Code, the Transportation*  
 25       *Board shall be deemed to be an independent regulatory*

1 *agency and an establishment of the United States Govern-*  
2 *ment.*

3       “(b) *OPEN MEETINGS.*—*For purposes of section 552b*  
4 *of title 5, United States Code, the Transportation Board*  
5 *shall be deemed to be an agency.*

6       “(c) *INDEPENDENCE.*—*In the performance of their*  
7 *functions, the members, employees, and other personnel of*  
8 *the Transportation Board shall not be responsible to or sub-*  
9 *ject to the supervision or direction of any officer, employee,*  
10 *or agent of any other part of the Department of Transpor-*  
11 *tation.*

12       “(d) *REPRESENTATION BY ATTORNEYS.*—*Attorneys*  
13 *designated by the Chairman of the Transportation Board*  
14 *may appear for, and represent the Transportation Board*  
15 *in, any civil action brought in connection with any func-*  
16 *tion carried out by the Transportation Board pursuant to*  
17 *this subtitle or as otherwise authorized by law.*

18       “(e) *ADMISSION TO PRACTICE.*—*Subject to section 500*  
19 *of title 5, the Transportation Board may regulate the ad-*  
20 *mission of individuals to practice before it and may impose*  
21 *a reasonable admission fee.*

22       “(f) *BUDGET REQUESTS.*—*In each annual request for*  
23 *appropriations by the President, the Secretary of Transpor-*  
24 *tation shall identify the portion thereof intended for the*

1 *support of the Transportation Board and include a state-*  
 2 *ment by the Transportation Board—*

3           “(1) *showing the amount requested by the Trans-*  
 4 *portation Board in its budgetary presentation to the*  
 5 *Secretary and the Office of Management and Budget;*  
 6 *and*

7           “(2) *an assessment of the budgetary needs of the*  
 8 *Transportation Board.*

9           “(g) *DIRECT TRANSMITTAL TO CONGRESS.—The*  
 10 *Transportation Board shall transmit to Congress copies of*  
 11 *budget estimates, requests, and information (including per-*  
 12 *sonnel needs), legislative recommendations, prepared testi-*  
 13 *mony for congressional hearings, and comments on legisla-*  
 14 *tion at the same time they are sent to the Secretary of*  
 15 *Transportation. An officer of an agency may not impose*  
 16 *conditions on or impair communications by the Transpor-*  
 17 *tation Board with Congress, or a committee or member of*  
 18 *Congress, about the information.*

19 **“§ 10304. Annual report**

20           *“The Transportation Board shall annually transmit*  
 21 *to the Congress a report on its activities.”.*

22           (b) *CONFORMING AMENDMENT.—The items relating to*  
 23 *subchapter I of chapter 103 in the table of sections of such*  
 24 *chapter are amended to read as follows:*

“SUBCHAPTER I—ESTABLISHMENT

“Sec.

“10301. *Establishment of Transportation Board.*

“10302. *Functions.*

“10303. *Administrative provisions.*

“10304. *Annual report.*”.

1   **SEC. 202. ADMINISTRATIVE SUPPORT.**

2           *The Secretary of Transportation shall provide admin-*  
3   *istrative support for the Transportation Board.*

4   **SEC. 203. REORGANIZATION.**

5           *The Chairman of the Transportation Board may allo-*  
6   *cate or reallocate any function of the Transportation Board,*  
7   *consistent with this title and subchapter I of chapter 103,*  
8   *as amended by section 201 of this title, among the members*  
9   *or employees of the Transportation Board, and may estab-*  
10   *lish, consolidate, alter, or discontinue in the Transportation*  
11   *Board any organizational entities that were entities of the*  
12   *Interstate Commerce Commission or the Federal Maritime*  
13   *Commission, as the Chairman considers necessary or ap-*  
14   *propriate.*

15   **SEC. 204. TRANSITION PLAN FOR FEDERAL MARITIME COM-**  
16                           **MISSION FUNCTIONS.**

17           *The Chairman of the Intermodal Surface Transpor-*  
18   *tation Board and the Chairman of the Federal Maritime*  
19   *Commission shall meet within 90 days of enactment of this*  
20   *Act to develop a plan for the orderly transition of the func-*  
21   *tions of the Federal Maritime Commission to the Transpor-*  
22   *tation Board, including appropriate funding levels for the*

1 *operations associated with the functions of the Federal Mar-*  
 2 *itime Commission transferred to the Transportation Board,*  
 3 *and shall submit such a plan to the Director of the Office*  
 4 *of Management and Budget and to the Senate Committee*  
 5 *on Commerce, Science, and Transportation and the House*  
 6 *of Representatives Committee on Transportation and Infra-*  
 7 *structure not later than 6 months after the enactment of*  
 8 *this Act.*

9 ***Subtitle B—Administrative***

10 ***SEC. 211. POWERS.***

11 *Section 10321 is amended—*

12 *(1) by striking “Interstate Commerce Commis-*  
 13 *sion” in subsection (a) and inserting in lieu thereof*  
 14 *“Transportation Board”;*

15 *(2) striking subsection (b) and inserting the fol-*  
 16 *lowing:*

17 *“(b) The Transportation Board may obtain from car-*  
 18 *riers providing transportation and service subject to this*  
 19 *part, and from persons controlling, controlled by, or under*  
 20 *common control with those carriers to the extent that the*  
 21 *business of that person is related to the management of the*  
 22 *business of those carriers, information the Transportation*  
 23 *Board decides is necessary to carry out this part.”;*

24 *(3) in subsection (c)(1), by striking “Commis-*  
 25 *sion, an individual Commissioner, an employee*

1       board, and an employee delegated to act under section  
 2       10305 of this title” and inserting in lieu thereof  
 3       “Transportation Board”;

4               (4) by striking paragraph (2) of subsection (c);

5               (5) by redesignating paragraph (3) of subsection  
 6       (c) as paragraph (2); and

7               (6) by striking “Commission” each place it ap-  
 8       pears and inserting in lieu thereof “Transportation  
 9       Board”.

10   **SEC. 212. COMMISSION ACTION.**

11       (a) *AMENDMENTS.*—Section 10324 is amended—

12               (1) in the section heading, by striking “**Com-**  
 13       **mission**” and inserting in lieu thereof “**Trans-**  
 14       **portation Board**”;

15               (2) by striking “Interstate Commerce Commis-  
 16       sion” in subsection (a) and inserting in lieu thereof  
 17       “Transportation Board”;

18               (3) by striking “Commission” each place it ap-  
 19       pears in subsection (b) and inserting in lieu thereof  
 20       “Transportation Board”;

21               (4) by striking subsection (c); and

22               (5) by adding at the end the following new sub-  
 23       sections:

1       “(c) *The Transportation Board may, at any time on*  
 2 *its own initiative because of material error, new evidence,*  
 3 *or substantially changed circumstances—*

4               “(1) *reopen a proceeding;*

5               “(2) *grant rehearing, reargument, or reconsider-*  
 6 *ation of an action of the Transportation Board; or*

7               “(3) *change an action of the Transportation*  
 8 *Board.*

9 *An interested party may petition to reopen and reconsider*  
 10 *an action of the Transportation Board under this sub-*  
 11 *section under regulations of the Transportation Board.*

12       “(d) *Notwithstanding this subtitle, an action of the*  
 13 *Transportation Board under this section is final on the date*  
 14 *on which it is served, and a civil action to enforce, enjoin,*  
 15 *suspend, or set aside the action may be filed after that*  
 16 *date.”.*

17       (b) *CONFORMING AMENDMENT.—The item relating to*  
 18 *section 10324 in the table of sections of chapter 103 is*  
 19 *amended by striking “Commission” and inserting in lieu*  
 20 *thereof “Transportation Board”.*

21       **SEC. 213. SERVICE OF NOTICE IN COMMISSION PROCEED-**  
 22                               **INGS.**

23       (a) *AMENDMENTS.—Section 10329 is amended—*

24               (1) *by striking “**Commission**” in the section*  
 25 *heading;*

1           (2) *by striking “Interstate Commerce Commis-*  
 2           *sion” in subsection (a) and inserting in lieu thereof*  
 3           *“Transportation Board”;*

4           (3) *striking “(1)” in subsection (a) and by strik-*  
 5           *ing paragraph (2) of subsection (a);*

6           (4) *striking “subchapter I of” in subsection (a);*

7           (5) *striking the second sentence in subsection (b);*

8           (6) *striking “(1) in subsection (c) and by strik-*  
 9           *ing paragraphs (2) and (3);*

10          (7) *striking “notices of the Commission shall be*  
 11          *served as follows: (1) A” in subsection (c) and insert-*  
 12          *ing “a”;*

13          (8) *by striking “, express, sleeping car,” in sub-*  
 14          *section (c)(1);*

15          (9) *by striking “Secretary of the” in subsection*  
 16          *(c);*

17          (10) *in subsection (d)—*

18                (A) *by striking “, express, sleeping car,”;*

19                *and*

20                (B) *by striking “who filed the tariff”;*

21          (11) *by striking subsection (e); and*

22          (12) *by striking “Commission” each place it ap-*  
 23          *pears and inserting in lieu thereof “Transportation*  
 24          *Board”.*



1       (b) *CONFORMING AMENDMENT.*—*The item relating to*  
 2 *section 10329 in the table of sections of chapter 103 is*  
 3 *amended by striking “Commission”.*

4   ***SEC. 214. SERVICE OF PROCESS IN COURT PROCEEDINGS.***

5       *Section 10330 is amended—*

6           (1) *by striking “Interstate Commerce Commis-*  
 7 *sion” in subsection (a) and inserting in lieu thereof*  
 8 *“Transportation Board”;*

9           (2) *by striking “subchapter I of” in the first sen-*  
 10 *tence of subsection (a);*

11           (3) *by striking “Secretary of the Commission” in*  
 12 *subsection (a) and inserting in lieu thereof “Trans-*  
 13 *portation Board”;*

14           (4) *by striking subsection (b); and*

15           (5) *by redesignating subsection (c) as subsection*  
 16 *(b).*

17   ***SEC. 215. STUDY ON THE AUTHORITY TO COLLECT***  
 18       ***CHARGES.***

19       *In addition to other user fees that the Transportation*  
 20 *Board may impose, the Transportation Board shall com-*  
 21 *plete, within 6 months after the date of enactment of this*  
 22 *Act, a study on the authority necessary to assess and collect*  
 23 *fees and annual charges in any fiscal year in amounts*  
 24 *equal to all of the costs incurred by the Transportation*  
 25 *Board in that fiscal year.*

1 **SEC. 216. FEDERAL HIGHWAY ADMINISTRATION RULE-**  
 2 **MAKING.**

3 (a) *ADVANCE NOTICE.*—*The Federal Highway Admin-*  
 4 *istration shall issue an advance notice of proposed rule-*  
 5 *making dealing with a variety of fatigue-related issues (in-*  
 6 *cluding 8 hours of continuous sleep after 10 hours of driv-*  
 7 *ing, loading and unloading operations, automated and*  
 8 *tamper-proof recording devices, rest and recovery cycles, fa-*  
 9 *tigue and stress in longer combination vehicles, fitness for*  
 10 *duty, and other appropriate regulatory and enforcement*  
 11 *countermeasures for reducing fatigue-related incidents and*  
 12 *increasing driver alertness) not later than March 1, 1996.*

13 (b) *RULEMAKING.*—*The Federal Highway Administra-*  
 14 *tion shall issue a notice of proposed rulemaking dealing*  
 15 *with such issues within one year after the advance notice*  
 16 *described in subsection (a) is published, and shall issue a*  
 17 *final rule dealing with those issues within 2 years after that*  
 18 *date.*

19 **TITLE III—RAIL AND PIPELINE**  
 20 **TRANSPORTATION**

21 **SEC. 301. GENERAL CHANGES IN REFERENCES TO COMMIS-**  
 22 **SION, ETC.**

23 *Subtitle IV is amended—*

24 (1) *by striking “Interstate Commerce Commis-*  
 25 *sion” each place it appears (including chapter and*

1        *section headings) and inserting “Intermodal Surface*  
 2        *Transportation Board”;*

3            *(2) by striking “Commission” each place it ap-*  
 4        *pears in reference to the Interstate Commerce Com-*  
 5        *mission (including chapter and section headings) and*  
 6        *inserting “Transportation Board”;*

7            *(3) by striking “Commissioner” each place it ap-*  
 8        *pears in reference to a member of the Interstate Com-*  
 9        *merce Commission (including chapter and section*  
 10       *headings) and inserting “Transportation Board mem-*  
 11       *ber”;*

12           *(4) by striking “Commissioners” each place it*  
 13        *appears in reference to members of the Interstate*  
 14        *Commerce Commission (including chapter and section*  
 15        *headings) and inserting “Transportation Board mem-*  
 16        *bers”;*

17           *(5) by striking “this subtitle” each place it ap-*  
 18        *pears and inserting “this part”;*

19           *(6) by inserting “PART A—RAIL AND PIPELINE*  
 20        *CARRIERS” after “SUBTITLE IV—INTERSTATE*  
 21        *COMMERCE”;*

22           *(7) by inserting before section 10101 the follow-*  
 23        *ing:*

“PART B—MOTOR CARRIERS, WATER CARRIERS, BRO-  
 KERS, AND FREIGHT FORWARDERS

“Chapter

“131. General provisions ..... 13101

“SEC.

<i>“Chapter</i>	<i>“SEC.</i>
<i>“133. Administrative provisions .....</i>	<i>13301</i>
<i>“135. Jurisdiction .....</i>	<i>13501</i>
<i>“137. Rates .....</i>	<i>13701</i>
<i>“139. Registration .....</i>	<i>13901</i>
<i>“141. Operations of carriers .....</i>	<i>14101</i>
<i>“143. Finance .....</i>	<i>14301</i>
<i>“145. Federal-State relations .....</i>	<i>14501</i>
<i>“147. Enforcement; investigations; rights; remedies .....</i>	<i>14701</i>
<i>“149. Civil and criminal penalties .....</i>	<i>14901</i>

1       *“PART A—RAIL AND PIPELINE CARRIERS”.*

2       ***SEC. 302. RAIL TRANSPORTATION POLICY.***

3       *Section 10101a is amended by—*

4               *(1) striking “and” after the semicolon in para-*  
5       *graph (14);*

6               *(2) striking the period at the end of paragraph*  
7       *(15) and inserting a semicolon and “and”; and*

8               *(3) adding at the end the following:*

9               *“(16) to provide expeditious remedies for traffic*  
10       *and facilities lacking effective transportation competi-*  
11       *tion.”.*

12       ***SEC. 303. DEFINITIONS.***

13       *Section 10102 is amended by—*

14               *(1) striking paragraphs (1), (2), (5), (6) (8)*  
15       *through (18), (19), (25), (27), and (30) through (33);*

16               *(2) redesignating the remaining paragraphs as*  
17       *paragraphs (1) through (11), respectively;*

18               *(3) striking paragraph (2) (as redesignated) and*  
19       *inserting:*

20               *“(2) ‘common carrier’ means a pipeline carrier*  
21       *and a rail carrier;”;*

1           (4) inserting “common carrier” after “railroad”  
2           in paragraph (6) (as redesignated);

3           (5) striking “, fare,” in paragraph (8) (as redesi-  
4           gnated);

5           (6) striking “of passengers or property, or both,”  
6           in paragraph (10)(A) (as redesignated) and inserting  
7           “of property,”; and

8           (7) striking “passengers and” in paragraph  
9           (10)(B) (as redesignated).

10 **SEC. 304. GENERAL JURISDICTION.**

11       Section 10501 is amended by—

12           (1) striking “Subject to this chapter and other  
13           law, the” in subsection (a), and inserting “The”;

14           (2) inserting “of property” after “transpor-  
15           tation” in subsection (a);

16           (3) striking “express carrier, sleeping car car-  
17           rier,” in subsection (a)(1);

18           (4) striking “passengers or” in subsection (b)(1);

19           (5) striking “subchapter” in subsection (c) and  
20           inserting “chapter” and by striking “(1) the trans-  
21           portation is deemed to be subject to the jurisdiction  
22           of the Commission pursuant to section 11501(b)(4)(B)  
23           of this title, or (2)” in subsection (c); and

24           (6) striking “(b)” after “section 11501” in sub-  
25           section (d).

1 **SEC. 305. RAILROAD AND WATER TRANSPORTATION CON-**  
 2 **NECTIONS AND RATES.**

3 *Section 10503 is amended by—*

4 *(1) striking “passengers or” each place it ap-*  
 5 *pears in subsection (a)(2); and*

6 *(2) striking “passengers,” in subsection*  
 7 *(a)(2)(B).*

8 **SEC. 306. AUTHORITY TO EXEMPT RAIL CARRIER AND**  
 9 **MOTOR CARRIER TRANSPORTATION.**

10 *Section 10505 is amended by—*

11 *(1) striking “rail carrier and motor carrier”*  
 12 *from the section heading;*

13 *(2) striking subsection (a) and inserting the fol-*  
 14 *lowing:*

15 *“(a) In a matter subject to the jurisdiction of the Inter-*  
 16 *modal Surface Transportation Board under this chapter,*  
 17 *the Transportation Board shall exempt a person, class of*  
 18 *persons, or a transaction or service from the application*  
 19 *of a provision of this title in whole or in part within 180*  
 20 *days after the filing of an application for an exemption,*  
 21 *when the Transportation Board finds that the application*  
 22 *of that provision in whole or in part—*

23 *“(1) is not necessary to carry out the transpor-*  
 24 *tation policy of section 10101 or section 10101a of*  
 25 *this title; and*

1           “(2) either (A) the transaction or service is of  
2           limited scope, or (B) the application of a provision  
3           of this title is not needed to protect shippers from the  
4           abuse of market power.”;

5           (3) striking subsection (d) and inserting the fol-  
6           lowing:

7           “(d) The Transportation Board shall revoke an exemp-  
8           tion in whole or in part, to the extent that application of  
9           a provision of this title to the person, class, or transpor-  
10          tation is necessary to carry out the transportation policy  
11          of section 10101a of this title. The Transportation Board  
12          shall conclude a proceeding under this subsection within  
13          180 days. In acting upon a request for revocation, the  
14          Transportation Board shall consider the availability of  
15          other economic transportation alternatives, in addition to  
16          any other factors it deems relevant. If a request for revoca-  
17          tion under this subsection is accompanied by a complaint  
18          seeking monetary damages for a violation of a provision  
19          of this title by a railroad, and the Transportation Board  
20          does not render a final decision on such request within 180  
21          days after the filing of the revocation request and com-  
22          plaint, then any monetary damages which the Transpor-  
23          tation Board may award at the conclusion of the proceeding  
24          shall be calculated from no later than the 181st day follow-  
25          ing the filing of the revocation request and complaint if

1 *the Transportation Board finds that such failure to render*  
 2 *a final decision within 180 days is due in substantial part*  
 3 *to dilatory practices of the railroad.”;*

4           (4) *striking subsection (f) and inserting the fol-*  
 5 *lowing:*

6           “(f) *The Transportation Board may exercise its au-*  
 7 *thority under this section to exempt transportation that is*  
 8 *provided by a carrier as a part of a continuous intermodal*  
 9 *movement.”; and*

10           (5) *striking subsection (g) and inserting the fol-*  
 11 *lowing:*

12           “(g) *The Transportation Board may not exercise its*  
 13 *authority under this section to relieve a carrier of its obliga-*  
 14 *tion to protect the interests of employees as required by this*  
 15 *part.”.*

16 ***SEC. 307. STANDARDS FOR RATES, CLASSIFICATIONS, ETC.***

17           *Section 10701 is amended by—*

18           (1) *redesignating subsection (c) as subsection (b);*

19           (2) *striking “subchapter I or III of chapter 105”*  
 20 *in subsection (b) as so redesignated and inserting*  
 21 *“chapter 105”;*

22           (3) *striking “the jurisdiction of the Commission*  
 23 *under either of those subchapters” in subsection (b) as*  
 24 *so redesignated and inserting “jurisdiction either*



1       under chapter 105 of this part or under part B of this  
2       subtitle”; and

3               (4) striking subsections (d) through (f).

4       **SEC. 308. STANDARDS FOR RATES FOR RAIL CARRIERS.**

5       Section 10701a is amended by—

6               (1) striking “subchapter I of” in subsection (a);

7               (2) striking “lesser of the percentages described  
8       in clauses (i) and (ii) of section 10707a(e)(2)(A) of  
9       this title” in subparagraphs (2)(A)(i) and (2)(B)(i) of  
10       subsection (b), and inserting “percentage described in  
11       section 10707a(d)(1)”;

12              (3) adding at the end of subsection (b) the follow-  
13       ing:

14              “(4)(A) Within 1 year after the date of enact-  
15       ment of the Interstate Commerce Commission Sunset  
16       Act of 1995, the Transportation Board shall complete  
17       the Interstate Commerce Commission non-coal rate  
18       guidelines proceeding pending on the date of enact-  
19       ment of the Interstate Commerce Commission Sunset  
20       Act of 1995 to establish a simplified and expedited  
21       method for determining the reasonableness of chal-  
22       lenged rail rates in those cases in which a stand-alone  
23       cost presentation is impractical.

24              “(B) Within 6 months after that date of enact-  
25       ment, the Transportation Board shall establish proce-

1        *dures to ensure expeditious handling of challenges to*  
 2        *the reasonableness of railroad rates. The procedures*  
 3        *shall include appropriate measures for avoiding delay*  
 4        *in the discovery and evidentiary phases of such pro-*  
 5        *ceedings and for ensuring prompt disposition of mo-*  
 6        *tions and interlocutory administrative appeals.*

7                *“(C) In a proceeding to challenge the reasonable-*  
 8        *ness of a railroad rate, other than a proceeding aris-*  
 9        *ing under section 10707 of this title, the Transpor-*  
 10        *tation Board shall make its determination as to the*  
 11        *reasonableness of the challenged rate—*

12                *“(i) within 6 months after the close of the*  
 13        *administrative record if the determination is*  
 14        *based upon a stand-alone cost presentation, or*

15                *“(ii) within 3 months after the close of the*  
 16        *administrative record if the determination is*  
 17        *based upon the methodology adopted by the*  
 18        *Board pursuant to paragraph (4)(A).”.*

19        **SEC. 309. AUTHORITY FOR CARRIERS TO ESTABLISH RATES,**  
 20                **CLASSIFICATIONS, ETC.**

21        *Section 10702 is amended by—*

1           (1) beginning with “service,” in paragraph (2)  
 2           of subsection (a) striking all that follows and insert-  
 3           ing “service.”; and

4           (2) striking subsections (b) and (c).

5   **SEC. 310. AUTHORITY FOR CARRIERS TO ESTABLISH**  
 6           **THROUGH ROUTES.**

7           Section 10703 is amended by—

8           (1) striking “, express, sleeping car,” in para-  
 9           graph (1) of subsection (a);

10          (2) striking paragraphs (3) and (4) of subsection  
 11          (a); and

12          (3) replacing “Commission under subchapter I,  
 13          II (insofar as motor carriers of property are con-  
 14          cerned), or III of” in subsection (b) with “Transpor-  
 15          tation Board under”.

16   **SEC. 311. AUTHORITY AND CRITERIA FOR PRESCRIBED**  
 17           **RATES, CLASSIFICATIONS, ETC.**

18          Section 10704 is amended by—

19          (1) striking “subchapter I of” and “(including a  
 20          maximum or minimum rate, or both)” in the first  
 21          sentence of subsection (a)(1);

22          (2) striking “subchapter” in the first sentence of  
 23          subsection (a)(2) and inserting “chapter”;

24          (3) striking the third sentence of subsection  
 25          (a)(2);

1           (4) striking paragraph (3) of subsection (a) and  
2           redesignating paragraph (4) as (3);

3           (5) striking “within 180 days after the effective  
4           date of the Staggers Rail Act of 1980 and” and  
5           “thereafter” in subsection (a)(3), as redesignated;

6           (6) striking subsections (b), (c), (d) and (e);

7           (7) redesignating subsection (f) as subsection (b);

8           (8) striking “on its own initiative or” in sub-  
9           section (b) as redesignated; and

10          (9) striking the last sentence of subsection (b), as  
11          redesignated.

12   **SEC. 312. AUTHORITY FOR PRESCRIBED THROUGH ROUTES,**

13                   **JOINT CLASSIFICATIONS, ETC.**

14          Section 10705 is amended by—

15           (1) striking “subchapter I, II (except a motor  
16           common carrier of property), or III of”, and “(in-  
17           cluding maximum or minimum rates or both)” in  
18           paragraph (1) of subsection (a);

19           (2) striking paragraph (3) of subsection (a);

20           (3) striking subsections (b) and (h) and redesign-  
21           ating subsections (c) through (g) as subsections (b)  
22           through (f);

23           (4) striking “or (b)” and “, water carrier, or  
24           motor common carrier of property” in subsection (b),  
25           as redesignated;

1           (5) striking “tariff” in subsection (d), as redesignated, and inserting “proposed rate change”;

3           (6) striking “, water common carrier, or motor common carrier of property” in subsection (d), as redesignated;

6           (7) striking “or (b)” and “on its own initiative or” in the first sentence of subsection (e)(1) as redesignated;

9           (8) striking “if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission” in the second sentence of subsection (e)(1), as redesignated; and

14          (9) striking “subsection (f)” in subsection (f), as redesignated, and inserting “subsection (e)”.

16 **SEC. 313. ANTITRUST EXEMPTION FOR RATE AGREEMENTS.**

17       Section 10706 is amended by—

18           (1) striking subsection (a)(3)(B);

19           (2) redesignating paragraphs (3)(C) and (D) of subsection (a) as paragraphs (3)(B) and (C);

21           (3) striking “consider” in subsection (a)(3)(B)(ii)(II), as redesignated, and inserting “considered”;

24           (4) striking “subchapter I of” in subsection (a)(5)(A);

1           (5) striking “the effective date of the Staggers  
2       *Rail Act of 1980*” in subsection (a)(5)(C), and insert-  
3       ing “October 1, 1980,”;

4           (6) striking subsections (b), (c), and (d) and re-  
5       designating subsections (e) through (g) as subsections  
6       (b) through (d);

7           (7) striking the first sentence of subsection (c), as  
8       redesignated, and inserting “The Transportation  
9       Board may review an agreement approved under sub-  
10      section (a) of this section and shall change the condi-  
11      tions of approval or terminate it when necessary to  
12      comply with the public interest.”;

13          (8) striking “subsection (a), (b), or (c) of this  
14      section.” in subsection (d), as redesignated and insert-  
15      ing “subsection (a).”; and

16          (9) striking subsections (h) and (i).

17   **SEC. 314. INVESTIGATION AND SUSPENSION OF NEW RAIL**  
18                           **RATES, ETC.**

19       Section 10707 is amended by—

20          (1) striking the first sentence of subsection (a)  
21      and inserting “When a new individual or joint rate  
22      or individual or joint classification, rule, or practice  
23      related to a rate is proposed by a rail carrier provid-  
24      ing transportation subject to the jurisdiction of the  
25      Intermodal Surface Transportation Board under

1 *chapter 105 of this title, the Transportation Board*  
 2 *may begin a proceeding, on complaint of an inter-*  
 3 *ested party, to determine whether the proposed rate,*  
 4 *classification, rule, or practice violates this part.”;*

5 *(2) striking subsection (d)(3) and redesignating*  
 6 *subsection (d)(4) as (d)(3);*

7 *(3) striking “or section 10761” in subsection*  
 8 *(d)(3), as redesignated; and*

9 *(4) striking “the Commission shall, by rule, es-*  
 10 *tablish standards and procedures permitting a rail*  
 11 *carrier to ” in subsection (d)(3), as redesignated, and*  
 12 *inserting “a rail carrier may”.*

13 ***SEC. 315. ZONE OF RAIL CARRIER RATE FLEXIBILITY.***

14 *Section 10707a is amended by—*

15 *(1) striking “Commencing with the fourth quar-*  
 16 *ter of 1980, the” in subsection (a)(2)(B) and inserting*  
 17 *“The”;*

18 *(2) striking “subchapter I of chapter 105 of this*  
 19 *title may” in subsection (b)(1) and inserting “chapter*  
 20 *105 of this title is authorized to”;*

21 *(3) inserting a period after “involved” in para-*  
 22 *graph (1) of subsection (b) and striking the remainder*  
 23 *of the paragraph;*

24 *(4) striking “may not” in subsection (b)(3) and*  
 25 *inserting “is not authorized to”;*

1           (5) striking “(A)” and “or (B) inflation based  
2           rate increases under section 10712 of this title appli-  
3           cable to that rate” in subsection (b)(3);

4           (6) striking subsections (c), (d) and (e), redesign-  
5           nating subsections (f), (g), and (h) as subsections (d),  
6           (e), and (f), and inserting after subsection (b) the fol-  
7           lowing:

8           “(c) In determining whether a rate is reasonable, the  
9           Transportation Board shall consider, among other factors,  
10          evidence of the following:

11           “(1) the amount of traffic which is transported  
12           at revenues which do not contribute to going concern  
13           value and efforts made to minimize such traffic;

14           “(2) the amount of traffic which contributes only  
15           marginally to fixed costs and the extent to which, if  
16           any, rates on such traffic can be changed to maximize  
17           the revenues from such traffic; and

18           “(3) the carrier’s mix of rail traffic to determine  
19           whether one commodity is paying an unreasonable  
20           share of the carrier’s overall revenues.”; and

21           (7) by striking subsection (d), as redesignated,  
22           and inserting the following:

23           “(d)(1) A finding by the Board that a rate increase  
24           exceeds the increase authorized under this section does not  
25           establish a presumption that (A) the rail carrier proposing



1 *such rate increase has or does not have market dominance*  
2 *over the transportation to which the rate applies, or (B)*  
3 *the proposed rate exceeds or does not exceed a reasonable*  
4 *maximum.*

5       “(2)(A) *If a rate increase authorized under this section*  
6 *in any year results in a revenue-variable cost percentage*  
7 *for the transportation to which the rate applies that is equal*  
8 *to or greater than 20 percentage points above the revenue-*  
9 *variable cost percentage applicable under section 10709(d)*  
10 *of this title, the Transportation Board may on complaint*  
11 *of an interested party, begin an investigation proceeding*  
12 *to determine whether the proposed rate increase violates this*  
13 *subtitle.*

14       “(B) *In determining whether to investigate or not to*  
15 *investigate any proposed rate increase that results in a rev-*  
16 *enue-variable cost percentage for the transportation to*  
17 *which the rate applies that is equal to or greater than the*  
18 *percentage described in subparagraph (A) of this paragraph*  
19 *(without regard to whether such rate increase is authorized*  
20 *under this section), the Transportation Board shall set forth*  
21 *its reasons therefor, giving due consideration to the follow-*  
22 *ing factors:*

23               “(i) *the amount of traffic which is transported at*  
24 *revenues which do not contribute to going concern*  
25 *value and efforts made to minimize such traffic;*

1           “(ii) the amount of traffic which contributes only  
 2           marginally to fixed costs and the extent to which, if  
 3           any, rates on such traffic can be changed to maximize  
 4           the revenues from such traffic; and

5           “(iii) the impact of the proposed rate or rate in-  
 6           crease on the attainment of the national energy goals  
 7           and the rail transportation policy under section  
 8           10101a of this title, taking into account the railroads’  
 9           role as a primary source of energy transportation and  
 10          the need for a sound rail transportation system in ac-  
 11          cordance with the revenue adequacy goals of section  
 12          10704 of this title.

13          This subparagraph shall not be construed to change existing  
 14          law with regard to the nonreviewability of such determina-  
 15          tion.”.

16      **SEC. 316. INVESTIGATION AND SUSPENSION OF NEW PIPE-**  
 17                                      **LINE CARRIER RATES, ETC.**

18          Section 10708 is amended by—

19                 (1) striking subsection (a)(1) and inserting the  
 20          following:

21          “(a)(1) The Intermodal Surface Transportation Board  
 22          may begin a proceeding to determine the lawfulness of a  
 23          proposed rate, classification, rule, or practice on applica-  
 24          tion of an interested party when a new individual or joint  
 25          rate or individual or joint classification, rule, or practice

1 *affecting a rate is proposed by a pipeline carrier subject*  
 2 *to the Transportation Board's jurisdiction under chapter*  
 3 *105 of this part.”;*

4 *(2) striking “an express, sleeping car, or” in the*  
 5 *third sentence of subsection (b) and inserting “a”;*  
 6 *and*

7 *(3) striking subsections (d) through (g).*

8 **SEC. 317. DETERMINATION OF MARKET DOMINANCE.**

9 *Section 10709 is amended by—*

10 *(1) adding at the end of subsection (a) the fol-*  
 11 *lowing: “In making a determination under this sec-*  
 12 *tion, the Transportation Board shall consider the*  
 13 *availability of other economic transportation alter-*  
 14 *natives, in addition to any other factors it deems rel-*  
 15 *evant.”*

16 *(2) striking “subchapter I of” in the first sen-*  
 17 *tence of subsection (b); and*

18 *(3) striking subsection (d) and inserting the fol-*  
 19 *lowing:*

20 *“(d) DETERMINATIONS OF RATE CHALLENGES.—*

21 *“(1) 180 PERCENT SAFE HARBOR.—In making a*  
 22 *determination under this section, the Transportation*  
 23 *Board shall find that the rail carrier establishing the*  
 24 *challenged rate does not have market dominance over*  
 25 *the transportation to which the rate applies if such*

1       *rail carrier proves that the rate charged results in a*  
 2       *revenue-variable cost percentage for such transpor-*  
 3       *tation that is less than 180 percent.*

4               “(2) *METHODOLOGY.*—*For purposes of determin-*  
 5       *ing the revenue-variable cost percentage for a particu-*  
 6       *lar transportation, variable costs shall be determined*  
 7       *by using the carrier’s costs, calculated using the Uni-*  
 8       *form Railroad Costing System (or an alternative cost*  
 9       *finding methodology adopted by the Transportation*  
 10       *Board in lieu thereof), with use of the current cost of*  
 11       *capital for calculating the return on investment, and*  
 12       *indexed quarterly to account for current wage and*  
 13       *price levels in the region in which the carrier oper-*  
 14       *ates.*

15               “(3) *BURDEN OF PROOF; REBUTTAL.*—*A rail*  
 16       *carrier may meet its burden of proof under this sub-*  
 17       *section by so establishing its variable costs, but a*  
 18       *shipper may rebut that showing by evidence of such*  
 19       *type, and in accordance with such burden of proof, as*  
 20       *the Transportation Board may prescribe.*

21               “(4) *NO PRESUMPTIONS CREATED.*—*A finding*  
 22       *by the Transportation Board that a rate charged by*  
 23       *a rail carrier results in a revenue-variable cost per-*  
 24       *centage for the transportation to which the rate ap-*

1       plies that is equal to or greater than 180 percent does  
2       not establish a presumption that—

3               “(A) such rail carrier has or does not have  
4               market dominance over such transportation, or  
5               “(B) the proposed rate exceeds or does not  
6               exceed a reasonable maximum.”.

7   **SEC. 318. CONTRACTS.**

8       Section 10713 is amended by—

9               (1) striking “subchapter I of” in the first sen-  
10       tence of subsection (a);

11              (2) striking subsection (b)(1) and inserting the  
12       following:

13       “(b)(1) A summary of each contract for the transpor-  
14       tation of agricultural products, including grain as defined  
15       in section 3 of the United States Grain Standards Act (7  
16       U.S.C. 75) and products thereof, entered into under this sec-  
17       tion shall be filed with the Transportation Board, contain-  
18       ing such nonconfidential information as the Transportation  
19       Board prescribes. The Transportation Board shall publish  
20       special rules for such contracts in order to assure that the  
21       essential terms of the contract are available to the general  
22       public. The parties to any such contract shall supply a copy  
23       of the full contract to the Transportation Board upon re-  
24       quest.”;

1           (3) striking “in tariff format” in subparagraphs  
2           (A) and (C) of subsection (b)(2);

3           (4) striking subsection (b)(2)(D);

4           (5) striking “other than a contract for the trans-  
5           portation of agricultural commodities (including for-  
6           est products and paper),” in subsection (d)(2)(A) and  
7           inserting “for the transportation of agricultural com-  
8           modities,”;

9           (6) strike “only” in (d)(2)(A)(i);

10          (7) striking “the case of a contract for the trans-  
11          portation of agricultural commodities (including for-  
12          est products and paper), in” in subsection (d)(2)(B);

13          (8) inserting “of agricultural commodities” after  
14          “filed by a shipper” in subsection (d)(2)(B);

15          (9) striking the last sentence of subsection  
16          (d)(2)(B);

17          (10) striking “A contract that is approved by the  
18          Commission” in subsection (i)(1) and inserting “In  
19          any contract entered into after the effective date of the  
20          Interstate Commerce Commission Sunset Act of 1995,  
21          if the shipper in writing expressly waives all rights  
22          and remedies under this part for the transportation  
23          covered by the contract, a contract entered into”;

24          (11) striking subsections (l) and (m); and

1           (12) striking “(including forest products but not  
2           including wood pulp, wood chips, pulpwood or  
3           paper)” in subsection (i)(1).

4   **SEC. 319. GOVERNMENT TRAFFIC.**

5           *The text of section 10721 is amended to read as follows:*

6           *“A carrier providing transportation or service for the  
7   United States Government may transport property or indi-  
8   viduals for the United States Government without charge  
9   or at a rate reduced from the applicable commercial rate.  
10   Section 3709 of the Revised Statutes (41 U.S.C. 5) does not  
11   apply when transportation for the United States Govern-  
12   ment can be obtained from a carrier lawfully operating in  
13   the area where the transportation would be provided.”.*

14   **SEC. 320. RATES AND LIABILITY BASED ON VALUE.**

15           *Section 10730 is amended by—*

16           (1) striking subsections (a) and (b);

17           (2) striking “(c)”;

18           (3) striking “rail carrier” and inserting “car-  
19   rier”; and

20           (4) striking “subchapter I of”.

21   **SEC. 321. PROHIBITIONS AGAINST DISCRIMINATION BY**  
22           **COMMON CARRIERS.**

23           *Section 10741 is amended by—*

24           (1) striking “subchapter I of” in subsection (a);

1           (2) *striking subsection (c) and inserting the fol-*  
 2           *lowing:*

3           “(c) *A carrier providing transportation subject to the*  
 4           *jurisdiction of the Transportation Board under chapter 105*  
 5           *of this title may not subject a freight forwarder providing*  
 6           *service subject to jurisdiction under part B of this subtitle*  
 7           *to unreasonable discrimination whether or not the freight*  
 8           *forwarder is controlled by that carrier.”;*

9           (3) *striking “subchapter I of” in subsection (e);*

10          (4) *striking subsection (f)(1) and inserting the*  
 11          *following: “(1) contracts under section 10713 of this*  
 12          *title;”;*

13          (5) *striking paragraphs (2), (3), and (5) of sub-*  
 14          *section (f) and redesignating paragraph (4) as para-*  
 15          *graph (2); and*

16          (6) *striking “paragraphs (2), (3), and (4)” in*  
 17          *subsection (f) and inserting “paragraph (2)”.*

18   **SEC. 322. FACILITIES FOR INTERCHANGE OF TRAFFIC.**

19          *Section 10742 is amended by—*

20          (1) *striking “subchapter I or III of” and “pas-*  
 21          *sengers and”; and*

22          (2) *striking “either of those subchapters.” and*  
 23          *inserting “Part A or B of this subtitle.”.*

24   **SEC. 323. LIABILITY FOR PAYMENT OF RATES.**

25          *Section 10744 is amended by—*



1           (1) striking “, motor, or water common” in the  
2     first sentence of subsection (a)(1);

3           (2) striking “or express” in the first sentence of  
4     subsection (b);

5           (3) striking “subtitle” in the first sentence of  
6     subsections (a)(1) and (b) and inserting “part”;

7           (4) striking paragraph (2) of subsection (c) and  
8     renumbering paragraph (3) as paragraph (2); and

9           (5) striking “or express” in subsection (c)(2), as  
10    redesignated.

11   **SEC. 324. CONTINUOUS CARRIAGE OF FREIGHT.**

12       Section 10745 is amended by striking “subchapter I  
13   of”.

14   **SEC. 325. TRANSPORTATION SERVICES OR FACILITIES FUR-**  
15       **NISHED BY SHIPPER.**

16       Section 10747 is amended by—

17           (1) striking the first and second sentences and  
18     inserting the following: “A carrier providing trans-  
19     portation or service subject to the jurisdiction of the  
20     Intermodal Surface Transportation Board under  
21     chapter 105 of this title may establish a charge or al-  
22     lowance for transportation or service for property  
23     when the owner of the property, directly or indirectly,  
24     furnishes a service related to or an instrumentality  
25     used in the transportation or service. The Transpor-

1        *tation Board may prescribe the maximum reasonable*  
 2        *charge or allowance paid for such service or instru-*  
 3        *mentality furnished.”; and*

4                *(2) striking “on its own initiative or” in the last*  
 5        *sentence.*

6    **SEC. 326. DEMURRAGE CHARGES.**

7        *Section 10750 is amended by striking “subchapter I*  
 8        *of”.*

9    **SEC. 327. TRANSPORTATION PROHIBITED WITHOUT TARIFF.**

10        *Section 10761 is amended to read as follows:*

11    **“§ 10761. Transportation of agricultural products pro-**  
 12                **hibited without tariff**

13        *“Except when providing transportation by contract as*  
 14        *provided in this subtitle, a carrier providing transportation*  
 15        *of agricultural products, including grain as defined in sec-*  
 16        *tion 3 of the United States Grain Standards Act (7 U.S.C.*  
 17        *75) and products thereof, and fertilizer and components*  
 18        *thereof, subject to the jurisdiction of the Intermodal Surface*  
 19        *Transportation Board under chapter 105 of this title shall*  
 20        *provide that transportation only if the rate for the trans-*  
 21        *portation is contained in a tariff that is in effect under*  
 22        *this subchapter. A carrier subject to this subsection may not*  
 23        *charge or receive a different compensation for that transpor-*  
 24        *tation than the rate specified in the tariff whether by re-*  
 25        *turning a part of that rate to a person, giving a person*

1 *a privilege, allowing the use of a facility that affects the*  
 2 *value of that transportation, or another device.”.*

3 **SEC. 328. GENERAL ELIMINATION OF TARIFF FILING RE-**  
 4 **QUIREMENTS.**

5 *Section 10762 is amended to read as follows:*

6 **“§ 10762. General elimination of tariff filing require-**  
 7 **ments**

8 *“(a) Except as provided in section 10713 of this title,*  
 9 *a carrier providing transportation of agricultural products*  
 10 *including grain as defined in section 3 of the United States*  
 11 *Grain Standards Act (7 U.S.C. 75) and products thereof,*  
 12 *and fertilizer and components thereof, subject to the juris-*  
 13 *diction of the Intermodal Surface Transportation Board*  
 14 *under chapter 105 of this title shall publish, keep open and*  
 15 *retain for public inspection, and immediately furnish to an*  
 16 *entity requesting the same, tariffs containing its rates for*  
 17 *the transportation of such commodities and its classifica-*  
 18 *tions, rules, and practices related to such rates. Tariffs are*  
 19 *not required for any other commodity.*

20 *“(b)(1) Within 180 days after the enactment of the*  
 21 *Interstate Commerce Commission Sunset Act of 1995, the*  
 22 *Intermodal Surface Transportation Board shall prescribe*  
 23 *the form and manner of publishing, keeping open, furnish-*  
 24 *ing to the public, and retaining for public inspection tariffs*  
 25 *under this section. The Transportation Board may pre-*

1 *scribe specific charges to be identified in a tariff required*  
2 *under this section to be published, kept open, furnished to*  
3 *the public, or retained for public inspection, but those tar-*  
4 *iffs must identify plainly—*

5           “(A) *the places between which property will be*  
6           *transported;*

7           “(B) *privileges given and facilities allowed; and*

8           “(C) *any rules that change, affect, or determine*  
9           *any part of the published rate.*

10          “(2) *A joint tariff published by a carrier under this*  
11 *section shall identify the carriers that are parties to it.*

12          “(c)(1) *When a carrier proposes to change a rate for*  
13 *transportation subject to this section, or a classification,*  
14 *rule, or practice related to such rate, the carrier shall pub-*  
15 *lish, transmit, and keep open for public inspection a notice*  
16 *of the proposed change as required under subsections (a)*  
17 *and (b) of this section.*

18          “(2) *A notice published under this subsection shall*  
19 *plainly identify the proposed change or new or reduced rate*  
20 *and indicate its proposed effective date. A proposed rate*  
21 *change resulting in an increased rate or a new rate shall*  
22 *not become effective for 20 days after the notice is published*  
23 *and a proposed rate change resulting in a reduced rate shall*  
24 *not become effective for 1 day after the notice is published,*  
25 *except that a contract authorized under section 10713 of*

1 *this title shall become effective in accordance with the provi-*  
 2 *sions of such section.*

3       “(d) *The Transportation Board may reduce the notice*  
 4 *period of subsection (c) of this section if cause exists. The*  
 5 *Transportation Board may change the other requirements*  
 6 *of this section if cause exists in particular instances or as*  
 7 *they apply to special circumstances.*

8       “(e) *Acting in response to a complaint or on its own*  
 9 *motion, the Transportation Board may reject a tariff pub-*  
 10 *lished under this section if that tariff violates this section*  
 11 *or a regulation of the Transportation Board carrying out*  
 12 *this section.”.*

13 **SEC. 329. DESIGNATION OF CERTAIN ROUTES.**

14       *Section 10763 is amended by striking “subchapter I*  
 15 *of” in subsection (a)(1).*

16 **SEC. 330. AUTHORIZING CONSTRUCTION AND OPERATION**  
 17 **OF RAILROAD LINES.**

18       *Section 10901 is amended by—*

19               (1) *striking “subchapter I of” in subsection (a);*

20       *and*

21               (2) *adding at the end the following new sub-*  
 22 *section:*

23       “(f) **SPECIAL RULE FOR NON-CLASS I TRANS-**  
 24 **ACTIONS.**—*For all transactions involving Class II freight*  
 25 *rail carriers, Class III freight rail carriers and non-car-*

riers, that are not owned or controlled by a Class I rail carrier and that are not a commuter, switching or terminal railroad, which propose to acquire, construct, operate, or provide transportation over a railroad line pursuant to this section, the Transportation Board may, consistent with the public interest, require an arrangement for the protection of the interest of railroad employees who are adversely affected by the transaction not to exceed one year's salary per adversely affected employee and protection no less than required by sections 2 through 5 of the Worker Adjustment and Retraining Act, unless the adversely affected employees or their representatives and the parties to the transaction agree otherwise.”.

**SEC. 331. AUTHORIZING ACTION TO PROVIDE FACILITIES.**

Section 10902 is amended by striking “subchapter I of” in the first sentence.

**SEC. 332. AUTHORIZING ABANDONMENT AND DISCONTINUANCE.**

Section 10903 is amended by striking “subchapter I of” in subsection (a).

**SEC. 333. FILING AND PROCEDURE FOR APPLICATIONS TO ABANDON OR DISCONTINUE.**

Section 10904 is amended by—

- (1) striking “subchapter I of” in subsection (a)(2);

1           (2) *striking subsection (d)(2);*

2           (3) *striking “(1)” in subsection (d); and*

3           (4) *striking “the application was approved by*  
4           *the Secretary of Transportation as part of a plan or*  
5           *proposal under section 333(a)–(d) of this title, or” in*  
6           *subsection (e)(3).*

7   **SEC. 334. EXCEPTIONS.**

8           *Section 10907 is amended by striking “subchapter I*  
9           *of” in subsection (a).*

10   **SEC. 335. RAILROAD DEVELOPMENT.**

11          *Section 10910 is amended by—*

12               (1) *striking paragraph (2) of subsection (a) and*  
13               *inserting the following:*

14                       “(2) ‘railroad line’ means any line of railroad.”;

15               (2) *striking “the effective date of the Staggers*  
16               *Rail Act of 1980” in subsection (g)(2), and inserting*  
17               *“October 1, 1980,”; and*

18               (3) *striking subsection (k) and inserting the fol-*  
19               *lowing:*

20                       “(k) *The Transportation Board shall maintain such*  
21                       *regulations and procedures as may be necessary to carry*  
22                       *out the provisions of this section.”.*

23   **SEC. 336. PROVIDING TRANSPORTATION, SERVICE, AND**  
24               **RATES.**

25          *Section 11101 is amended to read as follows:*

1   ***“§ 11101. Providing transportation, service, and rates***

2           “(a) *A carrier providing transportation or service sub-*  
3 *ject to the jurisdiction of the Intermodal Surface Transpor-*  
4 *tation Board under chapter 105 of this title shall provide*  
5 *the transportation or service on reasonable request.*

6           “(b) *Notwithstanding any other provision of this title,*  
7 *a rail carrier providing transportation service subject to the*  
8 *jurisdiction of the Transportation Board under chapter 105*  
9 *of this title shall provide, on reasonable written request,*  
10 *common carrier rates and other common carrier service*  
11 *terms of the type requested for specified services between*  
12 *specified points. The response by a rail carrier to a request*  
13 *for such rates or other service terms shall be in writing,*  
14 *or shall be available electronically, and forwarded to the*  
15 *requesting person no later than 30 days after receipt of the*  
16 *request. A rail carrier shall not refuse to respond to a re-*  
17 *quest under this subsection on grounds that the movement*  
18 *at issue is subject at the time a request is made to a contract*  
19 *entered into under section 10713 of this title.*

20           “(c) *Common carrier rates and service terms provided*  
21 *pursuant to subsection (b) of this section shall be subject*  
22 *to the provisions of this title.*

23           “(d) *A rail carrier may not increase any common car-*  
24 *rier rates, or change any common carrier service terms, pro-*  
25 *vided pursuant to subsection (b) unless at least 20 days’*  
26 *written or electronic notice is first provided to the person*



1 *that, within the previous 12 months, made a written or elec-*  
 2 *tronic request for the issue rate or service. Any such in-*  
 3 *creases or changes shall be subject to provisions of this sub-*  
 4 *title.”.*

5 **SEC. 337. USE OF TERMINAL FACILITIES.**

6 *Section 11103 is amended by striking “subchapter I*  
 7 *of” in subsection (a).*

8 **SEC. 338. SWITCH CONNECTIONS AND TRACKS.**

9 *Section 11104 is amended by striking “subchapter I*  
 10 *of” in subsection (a).*

11 **SEC. 339. CRITERIA.**

12 *Section 11121 is amended by—*

13 *(1) striking “subchapter I of” in subsection*  
 14 *(a)(1);*

15 *(2) striking subsection (a)(2) and inserting the*  
 16 *following:*

17 *“(2) The Transportation Board may require a*  
 18 *rail carrier to file its car service rules with the Trans-*  
 19 *portation Board.”;*

20 *(3) striking “, 11127,” in subsection (b); and*

21 *(4) adding at the end the following:*

22 *“(c) The Transportation Board shall consult, as it*  
 23 *deems necessary, with the National Grain Car Council on*  
 24 *matters within the charter of that body.”.*

1 **SEC. 340. REROUTING TRAFFIC ON FAILURE OF RAIL CAR-**  
 2 **RIER TO SERVE PUBLIC.**

3 *Section 11124 is amended by striking “subchapter I*  
 4 *of” in subsection (a).*

5 **SEC. 341. DIRECTED RAIL TRANSPORTATION.**

6 *Section 11125 is amended by striking “subchapter I*  
 7 *of” in subsection (a).*

8 **SEC. 342. WAR EMERGENCIES; EMBARGOES.**

9 *Section 11128 is amended by—*

10 (1) *striking “sections 11123(a)(4) and*  
 11 *11127(a)(1)(C)” and inserting “section 11123(a)” in sub-*  
 12 *section (a)(1); and*

13 (2) *striking “subchapter I of” in subsection (a)(2).*

14 **SEC. 343. DEFINITIONS FOR SUBCHAPTER III.**

15 *Section 11141 is amended to read as follows:*

16 **“§ 11141. Definitions**

17 *“In this subchapter—*

18 (1) *‘carrier’ and ‘lessor’ include a receiver or*  
 19 *trustee of a carrier and lessor respectively.*

20 (2) *‘lessor’ means a person owning a railroad*  
 21 *or a pipeline that is leased to and operated by a car-*  
 22 *rier providing transportation subject to the jurisdic-*  
 23 *tion of the Intermodal Surface Transportation Board*  
 24 *under chapter 105 of this title.*

25 (3) *‘association’ means an organization main-*  
 26 *tained by or in the interest of a group of carriers pro-*

1        *viding transportation or service subject to the juris-*  
 2        *diction of the Intermodal Surface Transportation*  
 3        *Board that performs a service, or engages in activi-*  
 4        *ties, related to transportation under this part.”.*

5        **SEC. 344. DEPRECIATION CHARGES.**

6        *Section 11143 is amended by—*

- 7                (1) *striking “subchapter I or III of”; and*  
 8                (2) *striking “and may, for a class of carriers*  
 9        *providing transportation subject to its jurisdiction*  
 10        *under subchapter II of that chapter,”.*

11        **SEC. 345. RECORDS, ETC.**

12        *Section 11144 is amended by—*

- 13                (1) *striking “, brokers,” in subsection (a)(1);*  
 14                (2) *striking “or express” and “subchapter I of”*  
 15        *in subsection (a)(2);*  
 16                (3) *striking “, broker,” in subsection (b)(1);*  
 17                (4) *striking “broker,” in subsection (b)(2)(A);*  
 18                (5) *striking “or express” in subsection (b)(2)(C);*  
 19                (6) *redesignating subsection (d) as subsection (c);*  
 20        *and*  
 21                (7) *striking “brokers,” in subsection (c), as redes-*  
 22        *ignated.*

23        **SEC. 346. REPORTS BY CARRIERS, LESSORS, AND ASSOCIA-**  
 24                **TIONS.**

25        *Section 11145 is amended by—*

- 1           (1) striking “brokers,” in subsection (a)(1);
- 2           (2) striking “or express,” in subsection (a)(2);
- 3           (3) striking “broker,” in the first sentence of sub-
- 4           section (b)(1);
- 5           (4) striking the second sentence of subsection
- 6           (b)(1); and
- 7           (5) striking subsection (c).

8   **SEC. 347. ACCOUNTING AND COST REPORTING.**

9       Section 11166 is amended by—

- 10           (1) striking “subchapter I of” in the first sen-
- 11           tence of subsection (a);
- 12           (2) striking the third sentence of subsection (a);
- 13           and
- 14           (3) striking “the cost accounting principles es-
- 15           tablished by the Transportation Board or under gen-
- 16           erally accepted accounting principles or the require-
- 17           ments of the Securities and Exchange Commission”
- 18           in subsection (b) and inserting “the appropriate cost
- 19           accounting principles”.

20   **SEC. 348. SECURITIES, OBLIGATIONS, AND LIABILITIES.**

21       Section 11301(a)(1) is amended by—

- 22           (1) striking “or sleeping car”; and
- 23           (2) striking “subchapter I of”.

1   **SEC. 349. EQUIPMENT TRUSTS.**

2       *Section 11303 is amended by adding at the end thereof*  
3   *the following:*

4       “(c) *The Transportation Board shall collect, maintain*  
5   *and keep open for public inspection a railway equipment*  
6   *register consistent with the manner and format maintained*  
7   *at the time of enactment of the Interstate Commerce Com-*  
8   *mission Sunset Act of 1995.*

9       “(d) *A mortgage, lease, equipment trust agreement,*  
10   *conditional sales agreement, or other instrument evidencing*  
11   *the mortgage, lease, conditional sale, or bailment of or secu-*  
12   *rity interest in railroad cars, locomotives, or other rolling*  
13   *stock, or accessories used on such railroad cars, locomotives,*  
14   *or other rolling stock (including superstructures and racks),*  
15   *or any assignment thereof, which—*

16           “(1) *is duly constituted under the laws of a*  
17    *country other than the United States; and*

18           “(2) *relates to property that bears the reporting*  
19    *marks and identification numbers of any person dom-*  
20    *iciled in or corporation organized under the laws of*  
21    *such country,*

22    *shall be recognized with the same effect as having been filed*  
23    *under this section.*

24       “(e) *Interests with respect to which documents are filed*  
25    *or recognized under this section are deemed perfected in all*  
26    *jurisdictions, and shall be governed by applicable State or*

1 *foreign law in all matters not specifically governed by this*  
 2 *section.”.*

3 ***SEC. 350. RESTRICTIONS ON OFFICERS AND DIRECTORS.***

4 *Section 11322 is amended by—*

5 *(1) redesignating subsections (a) and (b) as sub-*  
 6 *sections (b) and (c), respectively;*

7 *(2) inserting before subsection (b), as redesign-*  
 8 *ated, the following:*

9 *“(a) In this section “carrier” means a rail carrier pro-*  
 10 *viding transportation subject to the jurisdiction of the*  
 11 *Intermodal Surface Transportation Board under chapter*  
 12 *105 of this title (except a street, suburban, or interurban*  
 13 *electric railway not operated as a part of a general railroad*  
 14 *system of transportation), and a corporation organized to*  
 15 *provide transportation by rail carrier subject to that chap-*  
 16 *ter.”;*

17 *(3) striking “as defined in section 11301(a)(1) of*  
 18 *this title” in subsection (b) as redesignated; and*

19 *(4) striking “subsection (a)” and inserting “sub-*  
 20 *section (b)” in subsection (c), as redesignated.*

21 ***SEC. 351. LIMITATION ON POOLING AND DIVISION OF***  
 22 ***TRANSPORTATION OR EARNINGS.***

23 *Section 11342 is amended by—*

24 *(1) striking “subchapter I, II, or III of” in the*  
 25 *first sentence of subsection (a);*

1           (2) striking “Except as provided in subsection  
 2           (b) for agreements or combinations between or among  
 3           motor common carriers of property, the” in the sec-  
 4           ond sentence of subsection (a) and inserting “The”;  
 5           and

6           (3) striking subsections (b) and (d) and redesignig-  
 7           nating subsections (c) and (e) as subsections (b) and  
 8           (c), respectively.

9   **SEC. 352. CONSOLIDATION, MERGER, AND ACQUISITION OF**  
 10           **CONTROL.**

11       Section 11343 is amended by—

12           (1) inserting “(except a pipeline carrier)” after  
 13           “involving carriers” in subsection (a);

14           (2) striking “subchapter I (except a pipeline car-  
 15           rier), II, or III of” in subsection (a);

16           (3) striking paragraph (1) of subsection (d) and  
 17           striking “(2)” in paragraph (2); and

18           (4) striking subsection (e).

19   **SEC. 353. GENERAL PROCEDURE AND CONDITIONS OF AP-**  
 20           **PROVAL FOR CONSOLIDATION, ETC.**

21       Section 11344 is amended by—

22           (1) striking the third sentence in subsection (a);

23           (2) striking “subchapter I of that chapter” in the  
 24           last sentence of subsection (a) and inserting “chapter  
 25           105”;

- 1           (3) *striking paragraph (2) of subsection (b) and*
- 2           *striking “(1)” in the first paragraph of subsection (b);*
- 3           (4) *striking the fourth sentence of subsection (c);*
- 4           (5) *striking “When a rail carrier is involved in*
- 5           *the transaction, the” in the last sentence of subsection*
- 6           *(c) and inserting “The”;*
- 7           (6) *striking the last two sentences of subsection*
- 8           *(d); and*
- 9           (7) *striking subsection (e).*

10 ***SEC. 354. RAIL CARRIER PROCEDURE FOR CONSOLIDATION,***

11 ***ETC.***

12 *Section 11345 is amended by—*

- 13           (1) *striking “subchapter I of” in the first sen-*
- 14           *tence of subsection (a);*
- 15           (2) *inserting “, including comments by the Sec-*
- 16           *retary of Transportation and the Attorney General,”*
- 17           *before “may be filed” in the first sentence of sub-*
- 18           *section (c)(1);*
- 19           (3) *striking the last two sentences of subsection*
- 20           *(c)(1);*
- 21           (4) *inserting “, including comments by the Sec-*
- 22           *retary of Transportation and the Attorney General,”*
- 23           *before “may be filed” in the first sentence of sub-*
- 24           *section (d)(1); and*



1           (5) *striking the last two sentences of subsection*  
 2           *(d)(1).*

3   **SEC. 355. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

4           *Section 11347 is amended by striking “or section*  
 5   *11346” in the first sentence.*

6   **SEC. 356. AUTHORITY OVER NONCARRIER ACQUIRERS.**

7           *Section 11348(a) is amended by striking all after the*  
 8   *colon and inserting “sections 504(f) and 10764, subchapter*  
 9   *III of chapter 111, and sections 11301, 11901(e), and*  
 10   *11909.”.*

11   **SEC. 357. AUTHORITY OVER INTRASTATE TRANSPORTATION.**  
 12                                   **TATION.**

13           *Section 11501 is amended by—*

14                   (1) *striking subsections (a), (e), (g) and (h) and*  
 15                   *redesignating subsections (b), (c), (d), and (f) as sub-*  
 16                   *sections (a), (b), (c) and (d), respectively;*

17                   (2) *striking paragraphs (2) through (6) of sub-*  
 18                   *section (a), as redesignated;*

19                   (3) *striking “(1)” and “subchapter I of” in sub-*  
 20                   *section (a), as redesignated;*

21                   (4) *striking “subchapter I of” in subsection (b),*  
 22                   *as redesignated;*

23                   (5) *striking “subchapter I of” in subsection*  
 24                   *(c)(1), as redesignated;*

1           (6) striking “subsection (a) of this section and”  
 2           in subsection (c)(2), as redesignated; and  
 3           (7) striking the first sentence of subsection (d), as  
 4           redesignated, and inserting the following: “The Trans-  
 5           portation Board may take action under this section  
 6           only after a full hearing.”.

7   **SEC. 358. TAX DISCRIMINATION AGAINST RAIL TRANSPOR-**  
 8                           **TATION PROPERTY.**

9           Section 11503 is amended by—

10           (1) striking “subchapter I of” in subsection  
 11           (a)(3); and  
 12           (2) striking “subchapter I of” in subsection  
 13           (b)(4).

14   **SEC. 359. WITHHOLDING STATE AND LOCAL INCOME TAX BY**  
 15                           **CERTAIN CARRIERS.**

16           Section 11504 is amended by—

17           (1) striking “subchapter I of” in subsection (a);  
 18           (2) striking subsections (b) and (c) and redesign-  
 19           ating subsection (d) as subsection (b); and  
 20           (3) striking “, motor, and motor private” and  
 21           “subsection (a) or (b) of” in subsection (b), as redesign-  
 22           ated.

23   **SEC. 360. GENERAL AUTHORITY FOR ENFORCEMENT, IN-**  
 24                           **VESTIGATIONS, ETC.**

25           Section 11701 is amended by—

1           (1) striking “, broker or freight forwarder” in the  
2           second and fourth sentences of subsection (a);

3           (2) striking the third sentence of subsection (a);

4           (3) striking the first 2 sentences of subsection (b)  
5           and inserting the following: “A person, including a  
6           governmental authority, may file with the Transpor-  
7           tation Board a complaint about a violation of this  
8           part by a carrier providing transportation or service  
9           subject to the jurisdiction of the Transportation  
10          Board under this part. The complaint must state the  
11          facts that are the subject of the violation.”; and

12          (4) striking “subchapter I of” in the last sentence  
13          of subsection (b).

14   **SEC. 361. ENFORCEMENT.**

15          Section 11702 is amended by—

16          (1) striking “(a)” in subsection (a);

17          (2) striking paragraphs (4) through (6) of sub-  
18          section (a);

19          (3) striking “or 10933” in paragraph (1);

20          (4) striking paragraph (2) and inserting the fol-  
21          lowing:

22               “(2) to enforce subchapter III of chapter 113 of  
23               this title and to compel compliance with an order of  
24               the Transportation Board under that subchapter;  
25               and”

1           (5) striking “subchapter I of” in paragraph (3);

2           (6) striking the semicolon at the end of para-

3           graph (3) and inserting a period; and

4           (7) striking subsection (b).

5   **SEC. 362. ATTORNEY GENERAL ENFORCEMENT.**

6           Section 11703 is amended by striking “or permit”

7           wherever it appears in subsection (a).

8   **SEC. 363. RIGHTS AND REMEDIES.**

9           Section 11705 is amended by—

10           (1) striking “or a freight forwarder” in sub-

11           section (a);

12           (2) striking subsection (b)(1) and inserting the

13           following:

14           “(b)(1) A carrier providing transportation or service

15           subject to the jurisdiction of the Transportation Board

16           under chapter 105 of this title is liable to a person for

17           amounts charged that exceed the applicable rate for the

18           transportation or service.”;

19           (3) striking “subparagraph I or III of” in sub-

20           section ((b)(2);

21           (4) striking subsection (b)(3);

22           (5) striking “subchapter I or III of” in the first

23           sentence of subsection (c)(1);

24           (6) striking the second sentence of subsection

25           (c)(1);

1           (7) striking “subchapter I or III of” in the sec-  
2           ond sentence of subsection (c)(2);

3           (8) striking “subchapter I or III of” in the first  
4           sentence of subsection (d)(1); and

5           (9) striking “, or (D) if a water carrier, in  
6           which a port of call on a route operated by that car-  
7           rier is located” and inserting “or” before “(C)” in the  
8           fourth sentence of subsection (d)(1).

9   **SEC. 364. LIMITATION ON ACTIONS.**

10       Section 11706 is amended by—

11           (1) striking subsection (a) and inserting the fol-  
12       lowing:

13       “(a) A carrier providing transportation or service sub-  
14       ject to the jurisdiction of the Intermodal Surface Transpor-  
15       tation Board under chapter 105 of this title must begin a  
16       civil action to recover charges for the transportation or serv-  
17       ice provided by the carrier within 3 years after the claim  
18       accrues.”;

19           (2) striking the first sentence of subsection (b)  
20       and inserting “A person must begin a civil action to  
21       recover overcharges under section 11705(b)(1) of this  
22       title within 3 years after the claim accrues.”;

23           (3) striking “subchapter I or III of” in the last  
24       sentence of subsection (b);

25           (4) striking “(1)” in subsection (c);

1           (5) *striking paragraph (2) of subsection (c); and*  
 2           (6) *striking “(c)(1)” in the second sentence of*  
 3           *subsection (d) and inserting “(c)”.*

4   ***SEC. 365. LIABILITY OF COMMON CARRIERS UNDER RE-***  
 5           ***CEIPTS AND BILLS OF LADING.***

6           (a) *Section 11707 is amended by—*

7               (1) *striking “(a)(1)” in subsection (a) and in-*  
 8               *serting “(a)”;*

9               (2) *striking paragraph (2) of subsection (a);*

10              (3) *striking “subchapter I, II, or IV of” and*  
 11              *“and a freight forwarder” in the first sentence of sub-*  
 12              *section (a), as amended;*

13              (4) *striking “or freight forwarder” in the second*  
 14              *sentence of subsection (a), as amended;*

15              (5) *striking “subchapter I, II, or IV” in the sec-*  
 16              *ond sentence of subsection (a), as amended, and in-*  
 17              *serting “chapter 105 or subject to jurisdiction under*  
 18              *part B of this subtitle”;*

19              (6) *striking “, except in the case of a freight for-*  
 20              *warder,” in the third sentence of subsection (a), as*  
 21              *amended;*

22              (7) *striking “diverted under a tariff filed under*  
 23              *subchapter IV of chapter 107 of this title.” in the*  
 24              *third sentence of subsection (a), as amended, and in-*  
 25              *serting “diverted.”;*

1           (8) striking “or freight forwarder” in the fourth  
2 sentence of subsection (a);

3           (9) striking “and freight forwarder” in sub-  
4 section (c)(1), and striking “filed with the Commis-  
5 sion”;

6           (10) striking paragraph (3) of subsection (c) and  
7 redesignating paragraph (4) as paragraph (3);

8           (11) striking “or freight forwarder” wherever it  
9 appears in subsection (e); and

10          (12) striking “or freight forwarder’s” in sub-  
11 section (e)(2).

12          (b) The index for chapter 117 is amended by striking  
13 out the item relating to section 11707 and inserting in lieu  
14 thereof the following:

“Sec. 11707. Liability of Carriers under receipts and bills of lading.”.

15 **SEC. 366. LIABILITY WHEN PROPERTY IS DELIVERED IN**  
16 **VIOLATION OF ROUTING INSTRUCTIONS.**

17          Section 11710 is amended by striking “subchapter I  
18 of” in subsection (a)(1).

19 **SEC. 367. GENERAL CIVIL PENALTIES.**

20          Section 11901 is amended by:

21           (1) striking “subchapter I of” in subsection (a)  
22 and subsection (b);

23           (2) striking subsection (c) and subsections (g)  
24 through (l), and redesignating subsections (d) through

1       (f) as (c) through (e), respectively, and subsection (m)  
2       as (f);

3           (3) striking “11127” in subsection (d), as redes-  
4       ignated;

5           (4) striking “(1)” in subsection (d), as redesign-  
6       ated, and striking paragraph (2) of that subsection;

7           (5) striking “subchapter I of” each place it ap-  
8       pears in subsection (e), as redesignated;

9           (6) striking “(1)” in subsection (f), as redesign-  
10      ated, and striking paragraph (2) of that subsection;  
11      and

12           (7) striking “subsections (a)-(f) of” in subsection  
13      (f), as redesignated.

14   **SEC. 368. CIVIL PENALTY FOR ACCEPTING REBATES FROM**  
15                           **COMMON CARRIER.**

16       Section 11902 is amended by striking “contained in  
17   a tariff filed with the Commission under subchapter IV of  
18   chapter 107 of this title”.

19   **SEC. 369. RATE, DISCRIMINATION, AND TARIFF VIOLA-**  
20                           **TIONS.**

21       Section 11903 is amended by striking “under chapter  
22   107 of this title” in subsection (a).

23   **SEC. 370. ADDITIONAL RATE AND DISCRIMINATION VIOLA-**  
24                           **TIONS.**

25       Section 11904 is amended by—



1           (1) *striking subsections (b) through (d);*

2           (2) *striking “(a)(1)” in subsection (a) and in-*  
3 *serting “(a)”;*

4           (3) *redesignating paragraphs (2) and (3) of sub-*  
5 *section (a) as subsections (b) and (c), respectively;*

6           (4) *striking “(A)” and “(B)” in subsection (b),*  
7 *as redesignated, and inserting “(1)” and “(2)”, re-*  
8 *spectively;*

9           (5) *striking “subchapter I of” in subsections (b)*  
10 *and (c), as redesignated; and*

11           (6) *striking “under chapter 107 of this title” in*  
12 *subsection (b), as redesignated.*

13 ***SEC. 371. INTERFERENCE WITH RAILROAD CAR SUPPLY.***

14       *Section 11907 is amended by striking “subchapter I*  
15 *of” in subsections (a) and (b).*

16 ***SEC. 372. RECORD KEEPING AND REPORTING VIOLATIONS.***

17       *Section 11909 is amended by—*

18           (1) *striking subsections (b) through (d);*

19           (2) *striking “subchapter I of” in subsection (a);*  
20 *and*

21           (3) *striking “(a)” in subsection (a).*

22 ***SEC. 373. UNLAWFUL DISCLOSURE OF INFORMATION.***

23       *Section 11910 is amended by—*

24           (1) *striking paragraphs (2) through (4) of sub-*  
25 *section (a);*

1           (2) striking “(a)(1)” in subsection (a) and in-  
 2           serting “(a)”;

3           (3) striking “(A)” and “(B)” in subsection (a)  
 4           and inserting “(1) and “(2)”, respectively;

5           (4) striking “subchapter I of” in subsections (a)  
 6           and (d); and

7           (5) striking “or broker” in subsection (b).

8   **SEC. 374. CONSOLIDATION, MERGER, AND ACQUISITION OF**  
 9           **CONTROL.**

10          Section 11912 is amended by striking out “11346,”.

11   **SEC. 375. GENERAL CRIMINAL PENALTY.**

12          Section 11914 is amended by—

13           (1) striking subsections (b) through (d);

14           (2) striking “(a)” in subsection (a);

15           (3) striking “subchapter I of” in the first sen-  
 16          tence; and

17           (4) striking “11321(a) or” in the last sentence.

18   **SEC. 376. FINANCIAL ASSISTANCE FOR STATE PROJECTS.**

19          Section 22101 is amended by striking “subchapter I  
 20          of” in the first sentence of subsection (a).

21   **SEC. 377. STATUS OF AMTRAK AND APPLICABLE LAWS.**

22          Section 24301 is amended by striking “subchapter I  
 23          of” in subsections (c)(2)(B) and (d).

1 **SEC. 378. RAIL-SHIPPER TRANSPORTATION ADVISORY**  
 2 **COUNCIL.**

3 (a) *ESTABLISHMENT.*—Chapter 103 is amended by  
 4 adding at the end thereof the following:

5 **“SUBCHAPTER VI. RAIL—SHIPPER**  
 6 **TRANSPORTATION ADVISORY COUNCIL**  
 7 **§10391. Rail—Shipper Transportation Advisory**  
 8 **Council**

9 “(a) *ESTABLISHMENT; MEMBERSHIP.*—There is estab-  
 10 lished the Rail-Shipper Transportation Advisory Council  
 11 (hereinafter in this section referred to as the “Council”) to  
 12 be composed of 15 members appointed by the Chairman of  
 13 the Transportation Board, after recommendation from car-  
 14 riers and shippers, within 60 days after the date of enact-  
 15 ment of the Interstate Commerce Commission Sunset Act  
 16 of 1995. The members of the Council shall be appointed as  
 17 follows:

18 “(1) *The members of the Council shall be ap-*  
 19 *pointed from among citizens of the United States who*  
 20 *are not regular full-time employees of the United*  
 21 *States and shall be selected for appointment so as to*  
 22 *provide as nearly as practicable a broad representa-*  
 23 *tion of the various segments of the rail and rail ship-*  
 24 *per industry.*

25 “(2) *Nine of the members shall be appointed*  
 26 *from senior executive officers of organizations engaged*

1        *in the railroad and rail shipping industry, which 9*  
 2        *members shall be the voting members of the Council.*  
 3        *Council action and Council positions shall be deter-*  
 4        *mined by a majority vote of the members or by a ma-*  
 5        *jority vote of a quorum thereof. A majority of such*  
 6        *voting members shall constitute a quorum. Of such 9*  
 7        *voting members—*

8                *“(A) at least 4 shall be representative of*  
 9                *small shippers (as determined by the Chairman);*  
 10              *and*

11              *“(B) at least 4 shall be representative of*  
 12              *small railroads (Class II or III).*

13              *“(3) The remaining 6 members of the Council*  
 14        *shall serve in a non-voting advisory capacity only,*  
 15        *but shall be entitled to participate in Council delib-*  
 16        *erations. Of the remaining members—*

17              *“(A) 3 shall be from Class I railroads; and*

18              *“(B) 3 shall be from large shipper organiza-*  
 19              *tions (as determined by the Chairman).*

20              *“(4) The Secretary of Transportation and the*  
 21        *members of the Transportation Board shall serve as*  
 22        *ex officio members of the Council. The Council shall*  
 23        *not be subject to the Federal Advisory Committee Act.*  
 24        *A list of the members appointed to the Council shall*  
 25        *be forwarded to the Chairmen and ranking members*

1       *of the Senate Committee on Commerce, Science, and*  
2       *Transportation and the House Committee on Trans-*  
3       *portation and Infrastructure.*

4               “(5) *Each ex officio member of the Council may*  
5       *designate an alternate, who shall serve as a member*  
6       *of the Council whenever the ex officio member is un-*  
7       *able to attend a meeting of the Council. Any such des-*  
8       *ignated alternate shall be selected from individuals*  
9       *who exercise significant decision-making authority in*  
10       *the Federal agency involved.*

11       “(b) *TERM OF OFFICE.—The members of the Council*  
12       *shall be appointed for a term of office of three years, except*  
13       *that of the members first appointed—*

14               “(1) *5 members shall be appointed for terms of*  
15       *1 year, and*

16               “(2) *5 members shall be appointed for terms of*  
17       *2 years,*

18       *as designated by the Chairman at the time of appointment.*

19       *Any member appointed to fill a vacancy occurring before*  
20       *the expiration of the term for which the member’s prede-*  
21       *cessor was appointed shall be appointed only for the re-*  
22       *mainder of such term. A member may serve after the expira-*  
23       *tion of his term until his successor has taken office. Vacan-*  
24       *cies on the Council shall be filled in the same manner in*  
25       *which the original appointments were made. No member*

1 *of the Council shall be eligible to serve in excess of two con-*  
 2 *secutive terms.*

3       “(c) *ELECTION AND DUTIES OF OFFICERS.—The*  
 4 *Council Chairman and Vice Chairman and other appro-*  
 5 *priate officers of the Council shall be elected by and from*  
 6 *the voting members of the Council. The Council Chairman*  
 7 *shall serve as the Council’s executive officer and shall direct*  
 8 *the administration of the Council, assign officer and com-*  
 9 *mittee duties, and shall be responsible for issuing and com-*  
 10 *municating the reports, policy positions and statements of*  
 11 *the Council. In the event that the Council Chairman is un-*  
 12 *able to serve, the Vice Chairman shall act as Council Chair-*  
 13 *man.*

14       “(d) *EXPENSES.—The members of the Council shall re-*  
 15 *ceive no compensation for their services as such, but upon*  
 16 *request by the Council Chairman, based on a showing of*  
 17 *significant economic burden, the Secretary of Transpor-*  
 18 *tation or the Chairman may provide reasonable and nec-*  
 19 *essary travel expenses for such individual Council members*  
 20 *from Department or Transportation Board funding sources*  
 21 *in order to foster balanced representation on the Council.*  
 22 *Upon request by the Council Chairman, the Secretary or*  
 23 *Chairman may but is not required to pay the reasonable*  
 24 *and necessary expenses incurred by the Council in connec-*  
 25 *tion with the coordination of Council activities, announce-*

1 *ment and reporting of meetings, and preparation of such*  
2 *Council documents as are required or permitted by this Act.*  
3 *However, prior to making any funding requests the Council*  
4 *Chairman shall undertake best efforts to fund such activities*  
5 *privately unless he or she reasonably feels such private*  
6 *funding would create irreconcilable conflicts or the appear-*  
7 *ance thereof, or is otherwise impractical. The Council*  
8 *Chairman shall not request funding from any federal agen-*  
9 *cy unless he or she provides written justification as to why*  
10 *private funding would create such conflict or appearance,*  
11 *or is otherwise impractical. To enable the Council to carry*  
12 *out its functions—*

13           “(1) *the Council Chairman may request directly*  
14 *from any Federal department or agency such person-*  
15 *nel, information, services, or facilities, on a com-*  
16 *pensated or uncompensated basis, as he or she deter-*  
17 *mines necessary to carry out the functions of the*  
18 *Council;*

19           “(2) *each Federal department or agency may, in*  
20 *their discretion, furnish the Council with such infor-*  
21 *mation, services, and facilities as the Council Chair-*  
22 *man may request to the extent permitted by law and*  
23 *within the limits of available funds; and*

24           “(3) *Federal agencies and departments may, in*  
25 *their discretion, detail to temporary duty with the*

1        *Council, such personnel as the Council Chairman*  
2        *may request for carrying out the functions of the*  
3        *Council, each such detail to be without loss of senior-*  
4        *ity, pay, or other employee status.*

5        *“(e) MEETINGS.—The Council shall meet at least semi-*  
6        *annually and shall hold such other meetings as deemed pru-*  
7        *dent by and at the call of the Council Chairman. Appro-*  
8        *priate federal facilities, where available, may be used for*  
9        *such meetings. Whenever the Council, or a committee of the*  
10       *Council, considers matters that affect the jurisdictional in-*  
11       *terests of Federal agencies that are not represented on the*  
12       *Council, the Council Chairman may invite the heads of*  
13       *such agencies, or their alternates, to participate in the de-*  
14       *liberations of the Council.*

15       *“(f) FUNCTIONS AND DUTIES; ANNUAL REPORT.—The*  
16       *Council shall advise the Secretary, Chairman, and relevant*  
17       *Congressional transportation policy oversight committees*  
18       *with respect to rail transportation policy issues it deems*  
19       *significant, with particular attention to issues of impor-*  
20       *tance to small shippers and small railroads, including car*  
21       *supply, rates, competition, and effective procedures for ad-*  
22       *dressing legitimate shipper and other claims. To the extent*  
23       *the Council addresses specific grain car issues, it shall co-*  
24       *ordinate such activities with the Grain Car Council. The*  
25       *Secretary and Chairman shall work in cooperation with the*



1 Council to provide research, technical and other reasonable  
2 support in developing any documents provided for hereby.  
3 The Council shall endeavor to develop within the private  
4 sector mechanisms to prevent or identify and effectively ad-  
5 dress obstacles to the most effective and efficient transpor-  
6 tation system practicable. The Council shall prepare an an-  
7 nual report concerning its activities and the results of  
8 Council efforts to resolve industry issues within the Council  
9 structure in lieu of seeking regulatory or legislative relief,  
10 and propose whatever regulatory or legislative relief it  
11 deems appropriate in the event such efforts are unsuccessful.  
12 The Council shall include therein such recommendations as  
13 it deems appropriate with respect to the performance of the  
14 Secretary and Chairman under this chapter, and with re-  
15 spect to the operation and effectiveness of meetings and in-  
16 dustry developments relating to the Council's efforts, and  
17 such other information as it deems appropriate. Such an-  
18 nual reports shall be reviewed by the Secretary and Chair-  
19 man, and shall include the Secretary's and Chairman's  
20 views or comments relating to the accuracy of information  
21 therein, Council efforts and reasonableness of Council posi-  
22 tions and actions and any other aspects of the Council's  
23 work as they may deem appropriate. The Council may pre-  
24 pare other reports or develop policy statements as the Coun-  
25 cil deems appropriate. Each annual report shall cover a

1 *fiscal year and shall be submitted to the Secretary and*  
 2 *Chairman on or before the thirty-first day of December fol-*  
 3 *lowing the close of the fiscal year. Other such reports and*  
 4 *statements may be communicated as the Council deems ap-*  
 5 *propriate.”.*

6 (b) *CONFORMING AMENDMENT.—The table of sub-*  
 7 *chapters for chapter 103 is amended by adding at the end*  
 8 *thereof the following:*

“SUBCHAPTER VI. RAIL AND SHIPPER TRANSPORTATION ADVISORY  
COUNCIL

“10391. *Rail and shipper advisory council.*”.

9 ***TITLE IV—MOTOR CARRIER,***  
 10 ***WATER CARRIER, BROKER,***  
 11 ***AND FREIGHT FORWARDER***  
 12 ***TRANSPORTATION***  
 13 ***Subtitle A—Addition of Part B***

14 ***SEC. 401. ENACTMENT OF PART B OF SUBTITLE IV, TITLE 49,***  
 15 ***UNITED STATES CODE.***

16 *Subtitle IV is amended by inserting after chapter 119*  
 17 *the following:*

18 *“PART B—MOTOR CARRIERS, WATER CARRIERS,*  
 19 *BROKERS, AND FREIGHT FORWARDERS*

20 ***“CHAPTER 131—GENERAL PROVISIONS***

21 ***“§ 13101. Transportation policy***

22 *“(a) To ensure the development, coordination, and*  
 23 *preservation of a transportation system that meets the*

1 *transportation needs of the United States, including the*  
2 *United States Postal Service and national defense, it is the*  
3 *policy of the United States Government to provide for the*  
4 *impartial regulation of the modes of transportation , and—*

5 *“(1) in regulating those modes—*

6 *“(A) to recognize and preserve the inherent*  
7 *advantage of each mode of transportation;*

8 *“(B) to promote safe, adequate, economical,*  
9 *and efficient transportation;*

10 *“(C) to encourage sound economic condi-*  
11 *tions in transportation, including sound eco-*  
12 *nomics conditions among carriers;*

13 *“(D) to encourage the establishment and*  
14 *maintenance of reasonable rates for transpor-*  
15 *tation, without unreasonable discrimination or*  
16 *unfair or destructive competitive practices;*

17 *“(E) to cooperate with each State and the*  
18 *officials of each State on transportation matters;*  
19 *and*

20 *“(F) to encourage fair wages and working*  
21 *conditions in the transportation industry;*

22 *“(2) in regulating transportation by motor car-*  
23 *rier, to promote competitive and efficient transpor-*  
24 *tation services in order to (A) encourage fair competi-*  
25 *tion, and reasonable rates for transportation by motor*

1        *carriers of property; (B) promote Federal regulatory*  
2        *efficiency in the motor carrier transportation system*  
3        *and to require fair and expeditious regulatory deci-*  
4        *sions when regulation is required; (C) meet the needs*  
5        *of shippers, receivers, passengers, and consumers; (D)*  
6        *allow a variety of quality and price options to meet*  
7        *changing market demands and the diverse require-*  
8        *ments of the shipping and traveling public; (E) allow*  
9        *the most productive use of equipment and energy re-*  
10       *sources; (F) enable efficient and well-managed car-*  
11       *riers to earn adequate profits, attract capital, and*  
12       *maintain fair wages and working conditions; (G)*  
13       *provide and maintain service to small communities*  
14       *and small shippers and intrastate bus services; (H)*  
15       *provide and maintain commuter bus operations; (I)*  
16       *improve and maintain a sound, safe, and competitive*  
17       *privately owned motor carrier system; (J) promote*  
18       *greater participation by minorities in the motor car-*  
19       *rier system; and (K) promote intermodal transpor-*  
20       *tation; and*

21                *“(3) in regulating transportation by motor car-*  
22       *rier of passengers (A) to cooperate with the States on*  
23       *transportation matters for the purpose of encouraging*  
24       *the States to exercise intrastate regulatory jurisdic-*  
25       *tion in accordance with the objectives of this part; (B)*

1     *to provide Federal procedures which ensure that*  
 2     *intrastate regulation is exercised in accordance with*  
 3     *this part; and (C) to ensure that Federal reform ini-*  
 4     *tiatives enacted by section 31138 of this title and the*  
 5     *Bus Regulatory Reform Act of 1995 of 1982 are not*  
 6     *nullified by State regulatory actions.*

7     “(b) *This part shall be administered and enforced to*  
 8     *carry out the policy of this section.*

9     **“§ 13102. Definitions**

10     *“In this part—*

11             *“(1) ‘broker’ means a person, other than a motor*  
 12             *carrier or an employee or agent of a motor carrier,*  
 13             *that as a principal or agent sells, offers for sale, nego-*  
 14             *tiates for, or holds itself out by solicitation, advertise-*  
 15             *ment, or otherwise as selling, providing, or arranging*  
 16             *for, transportation by motor carrier for compensation.*

17             *“(2) ‘carrier’ means a motor carrier, a water*  
 18             *carrier, and a freight forwarder, and, for purposes of*  
 19             *sections 13902, 13905, and 13906, the term includes*  
 20             *foreign motor private carriers;*

21             *“(3) ‘contract carriage’ means—*

22                 *“(A) for transportation provided before the*  
 23                 *date of enactment of the Interstate Commerce*  
 24                 *Commission Sunset Act of 1995, service provided*

1       *pursuant to a permit issued under former section*  
2       *10923 of this subtitle; and*

3               *“(B) for transportation provided on or after*  
4       *that date, service provided under an agreement*  
5       *entered into under section 14101(b) of this part;*

6       *“(4) “control”, when referring to a relationship*  
7       *between persons, includes actual control, legal control,*  
8       *and the power to exercise control, through or by (A)*  
9       *common directors, officers, stockholders, a voting*  
10       *trust, or a holding or investment company, or (B)*  
11       *any other means;*

12               *“(5) ‘foreign motor carrier’ means a person (in-*  
13       *cluding a motor carrier of property but excluding a*  
14       *motor private carrier)—*

15               *“(A)(i) which is domiciled in a contiguous*  
16       *foreign country; or*

17               *“(ii) which is owned or controlled by per-*  
18       *sons of a contiguous foreign country and is not*  
19       *domiciled in the United States; and*

20               *“(B) in the case of a person which is not a*  
21       *motor carrier of property, which provides inter-*  
22       *state transportation of property by motor vehicle*  
23       *under an agreement or contract entered into*  
24       *with a motor carrier of property (other than a*

1           *motor private carrier or a motor carrier of prop-*  
2           *erty described in subparagraph (A));*

3           “(6) ‘foreign motor private carrier’ means a per-  
4           son (including a motor private carrier but excluding  
5           a motor carrier of property)—

6                   “(A)(i) which is domiciled in a contiguous  
7                   foreign country; or

8                   “(ii) which is owned or controlled by per-  
9                   sons of a contiguous foreign country and is not  
10                  domiciled in the United States; and

11                  “(B) in the case of a person which is not a  
12                  motor private carrier, which provides interstate  
13                  transportation of property by motor vehicle  
14                  under an agreement or contract entered into  
15                  with a person (other than a motor carrier of  
16                  property or a motor private carrier described in  
17                  subparagraph (A));

18           “(7) ‘freight forwarder’ means a person holding  
19           itself out to the general public (other than as a pipe-  
20           line, rail, motor, or water carrier) to provide trans-  
21           portation of property for compensation and in the or-  
22           dinary course of its business—

23                   “(A) assembles and consolidates, or provides  
24                   for assembling and consolidating, shipments and

1        *performs or provides for break-bulk and distribu-*  
2        *tion operations of the shipments;*

3                *“(B) assumes responsibility for the trans-*  
4        *portation from the place of receipt to the place*  
5        *of destination; and*

6                *“(C) uses for any part of the transportation*  
7        *a carrier subject to jurisdiction under part A or*  
8        *part B of this subtitle; but the term does not in-*  
9        *clude a person using transportation of an air*  
10       *carrier subject to part A of subtitle VII of this*  
11       *title;*

12               *“(8) ‘highway’ means a road, highway, street,*  
13       *and way in a State;*

14               *“(9) ‘household goods’ means—*

15               *“(A) personal effects and property used or*  
16       *to be used in a dwelling when a part of the*  
17       *equipment or supply of such dwelling and simi-*  
18       *lar property, whether the transportation is—*

19               *“(i) requested and paid for by the*  
20       *householder, including transportation of*  
21       *property from a factory or store when the*  
22       *property is purchased by the householder*  
23       *with intent to use in his dwelling; or*

24               *“(ii) arranged and paid for by another*  
25       *party;*



1           “(B) furniture, fixtures, equipment, and the  
2           property of stores, offices, museums, institutions,  
3           hospitals or other establishments when a part of  
4           the stock, equipment, or supply of such stores, of-  
5           fices, museums, institutions, hospitals, or other  
6           establishments and similar property; except that  
7           this subparagraph shall not be construed to in-  
8           clude the stock-in-trade of any establishment,  
9           whether consignor or consignee, other than used  
10          furniture and used fixtures, except when trans-  
11          ported as incidental to moving of the establish-  
12          ment, or a portion thereof, from one location to  
13          another; and

14          “(C) articles, including objects of art, dis-  
15          plays, and exhibits, which because of their un-  
16          usual nature or value require the specialized  
17          handling and equipment usually employed in  
18          moving household goods and similar articles; ex-  
19          cept that this subparagraph shall not be con-  
20          strued to include any article, whether crated or  
21          uncrated, which does not, because of its unusual  
22          nature or value, require the specialized handling  
23          and equipment usually employed in moving  
24          household goods;

1           “(10) ‘household goods freight forwarder’ means  
2           a freight forwarder of one or more of the following  
3           items: household goods, unaccompanied baggage, or  
4           used automobiles;

5           “(11) ‘motor carrier’ means a person providing  
6           motor vehicle transportation for compensation, in-  
7           cluding foreign motor carriers;

8           “(12) ‘motor private carrier’ means a person,  
9           other than a motor carrier, transporting property by  
10          motor vehicle when—

11               “(A) the transportation is as provided in  
12               section 13501 of this title;

13               “(B) the person is the owner, lessee, or bail-  
14               ee of the property being transported; and

15               “(C) the property is being transported for  
16               sale, lease, rent, or bailment, or to further a com-  
17               mercial enterprise;

18           “(13) ‘motor vehicle’ means a vehicle, machine,  
19           tractor, trailer, or semitrailer propelled or drawn by  
20           mechanical power and used on a highway in trans-  
21           portation, or a combination determined by the Sec-  
22           retary, but does not include a vehicle, locomotive, or  
23           car operated only on a rail, or a trolley bus operated  
24           by electric power from a fixed overhead wire, and

1     *providing local passenger transportation similar to*  
2     *street-railway service;*

3             “(14) ‘non-contiguous domestic trade’ means  
4     *motor-water transportation subject to jurisdiction*  
5     *under chapter 135 of this title involving traffic origi-*  
6     *nating in or destined to Alaska, Hawaii, or a terri-*  
7     *tory or possession of the United States;*

8             “(15) ‘person’, in addition to its meaning under  
9     *section 1 of title 1, includes a trustee, receiver, as-*  
10    *signee, or personal representative of a person;*

11            “(16) ‘State’ means a State of the United States  
12    *and the District of Columbia;*

13            “(17) ‘transportation’ includes—

14               “(A) a motor vehicle, vessel, warehouse,  
15               *wharf, pier, dock, yard, property, facility, in-*  
16               *strumentality, or equipment of any kind related*  
17               *to the movement of passengers or property, or*  
18               *both, regardless of ownership or an agreement*  
19               *concerning use; and*

20               “(B) services related to that movement, in-  
21               *cluding receipt, delivery, elevation, transfer in*  
22               *transit, refrigeration, icing, ventilation, storage,*  
23               *packing, and interchange of passengers and*  
24               *property;*

1           “(18) ‘United States’ means the States of the  
2           United States and the District of Columbia;

3           “(19) ‘vessel’ means a watercraft or other artifi-  
4           cial contrivance that is used, is capable of being used,  
5           or is intended to be used, as a means of transpor-  
6           tation by water; and

7           “(20) ‘water carrier’ means a person providing  
8           water transportation for compensation.

9    **“§ 13103. Remedies are cumulative**

10       “Except as otherwise provided in this part, the rem-  
11 edies provided under this part are in addition to remedies  
12 existing under another law or at common law.

13    **“CHAPTER 133—ADMINISTRATIVE PROVISIONS**

14    **“§ 13301. Powers**

15       “(a) Except as otherwise specified, the Secretary of  
16 Transportation shall carry out this part. Enumeration of  
17 a power of the Secretary in this part does not exclude an-  
18 other power the Secretary may have in carrying out this  
19 part. The Secretary may prescribe regulations in carrying  
20 out this part.

21       “(b) The Secretary may obtain from carriers provid-  
22 ing, and brokers for, transportation and service subject to  
23 this part, and from persons controlling, controlled by, or  
24 under common control with those carriers or brokers to the  
25 extent that the business of that person is related to the man-

1   *agement of the business of that carrier or broker, informa-*  
2   *tion the Secretary decides is necessary to carry out this*  
3   *part.*

4       “(c)(1) *The Secretary may subpoena witnesses and*  
5   *records related to a proceeding under this part from any*  
6   *place in the United States, to the designated place of the*  
7   *proceeding. If a witness disobeys a subpoena, the Secretary,*  
8   *or a party to a proceeding under this part, may petition*  
9   *a court of the United States to enforce that subpoena.*

10       “(2) *The district courts of the United States have juris-*  
11   *isdiction to enforce a subpoena issued under this section. Trial*  
12   *is in the district in which the proceeding is conducted. The*  
13   *court may punish a refusal to obey a subpoena as a contempt*  
14   *of court.*

15       “(d)(1) *In a proceeding under this part, the Secretary*  
16   *may take the testimony of a witness by deposition and may*  
17   *order the witness to produce records. A party to a proceed-*  
18   *ing pending under this part may take the testimony of a*  
19   *witness by deposition and may require the witness to*  
20   *produce records at any time after a proceeding is at issue*  
21   *on petition and answer.*

22       “(2) *If a witness fails to be deposed or to produce*  
23   *records under paragraph (1) of this subsection, the Sec-*  
24   *retary may subpoena the witness to take a deposition,*  
25   *produce the records, or both.*

1       “(3) *A deposition may be taken before a judge of a*  
2 *court of the United States, a United States magistrate*  
3 *judge, a clerk of a district court, or a chancellor, justice,*  
4 *or judge of a supreme or superior court, mayor or chief*  
5 *magistrate of a city, judge of a county court, or court of*  
6 *common pleas of any State, or a notary public who is not*  
7 *counsel or attorney of a party or interested in the proceed-*  
8 *ing.*

9       “(4) *Before taking a deposition, reasonable notice must*  
10 *be given in writing by the party or the attorney of that*  
11 *party proposing to take a deposition to the opposing party*  
12 *or the attorney of record of that party, whoever is nearest.*  
13 *The notice shall state the name of the witness and the time*  
14 *and place of taking the deposition.*

15       “(5) *The testimony of a person deposed under this sub-*  
16 *section shall be taken under oath. The person taking the*  
17 *deposition shall prepare, or cause to be prepared, a tran-*  
18 *script of the testimony taken. The transcript shall be sub-*  
19 *scribed by the deponent.*

20       “(6) *The testimony of a witness who is in a foreign*  
21 *country may be taken by deposition before an officer or per-*  
22 *son designated by the Secretary or agreed on by the parties*  
23 *by written stipulation filed with the Secretary. A deposition*  
24 *shall be filed with the Secretary promptly.*

1       “(e) *Each witness summoned before the Secretary or*  
 2 *whose deposition is taken under this section and the indi-*  
 3 *vidual taking the deposition are entitled to the same fees*  
 4 *and mileage paid for those services in the courts of the*  
 5 *United States.*

6       “(f) *For those provisions of this part that are specified*  
 7 *to be carried out by the Intermodal Surface Transportation*  
 8 *Board, the Transportation Board shall have the same pow-*  
 9 *ers as the Secretary has under this section.*

10   **“§ 13302. Intervention**

11       “*Under regulations of the Secretary of Transportation,*  
 12 *reasonable notice of, and an opportunity to intervene and*  
 13 *participate in, a proceeding under this part related to*  
 14 *transportation subject to jurisdiction under subchapter I of*  
 15 *chapter 135 of this title shall be given to interested persons.*

16   **“§ 13303. Service of notice in proceedings under this**  
 17                                   **part**

18       “(a) *A motor carrier, a broker, or a freight forwarder*  
 19 *providing transportation or service subject to jurisdiction*  
 20 *under chapter 135 of this title shall designate in writing*  
 21 *an agent by name and post office address on whom service*  
 22 *of notices in a proceeding before, and of actions of, the Sec-*  
 23 *retary may be made.*

24       “(b) *A notice to a motor carrier, broker, or freight for-*  
 25 *warder is served personally or by mail on the motor carrier,*

1 broker, or freight forwarder or on its designated agent. Serv-  
2 ice by mail on the designated agent is made at the address  
3 filed for the agent. When notice is given by mail, the date  
4 of mailing is considered to be the time when the notice is  
5 served. If a motor carrier, broker, or freight forwarder does  
6 not have a designated agent, service may be made by post-  
7 ing a copy of the notice at the headquarters of the Depart-  
8 ment of Transportation.

9 **“§ 13304. Service of process in court proceedings**

10       “(a) A motor carrier or broker providing transpor-  
11 tation subject to jurisdiction under chapter 135 of this title,  
12 including a motor carrier or broker operating within the  
13 United States while providing transportation between  
14 places in a foreign country or between a place in one foreign  
15 country and a place in another foreign country, shall des-  
16 ignate an agent in each State in which it operates by name  
17 and post office address on whom process issued by a court  
18 with subject matter jurisdiction may be served in an action  
19 brought against that carrier or broker. The designation  
20 shall be in writing and filed with the Department of Trans-  
21 portation and each State may require that an additional  
22 designation be filed with it. If a designation under this sub-  
23 section is not made, service may be made on any agent of  
24 the carrier or broker within that State.



1       “(b) *A designation under this section may be changed*  
 2     *at any time in the same manner as originally made.*

3                   **“CHAPTER 135—JURISDICTION**

4       **“SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION**

5       **“§ 13501. General jurisdiction**

6       *“The Secretary of Transportation and the Intermodal*  
 7     *Surface Transportation Board have jurisdiction, as speci-*  
 8     *fied in this part, over transportation by motor carrier and*  
 9     *the procurement of that transportation, to the extent that*  
 10    *passengers, property, or both, are transported by motor car-*  
 11    *rier—*

12               *“(1) between a place in—*

13                   *“(A) a State and a place in another State;*

14                   *“(B) a State and another place in the same*  
 15     *State through another State;*

16                   *“(C) the United States and a place in a ter-*  
 17     *ritory or possession of the United States to the*  
 18     *extent the transportation is in the United States;*

19                   *“(D) the United States and another place*  
 20     *in the United States through a foreign country*  
 21     *to the extent the transportation is in the United*  
 22     *States; or*

23                   *“(E) the United States and a place in a*  
 24     *foreign country to the extent the transportation*  
 25     *is in the United States; and*

1           “(2) in a reservation under the exclusive juris-  
 2           diction of the United States or on a public highway.

3   **“§ 13502. Exempt transportation between Alaska and**  
 4           **other States**

5           “To the extent that transportation by a motor carrier  
 6 between a place in Alaska and a place in another State  
 7 under section 13501 of this title is provided in a foreign  
 8 country—

9           “(1) neither the Secretary of Transportation nor  
 10 the Intermodal Surface Transportation Board has ju-  
 11 risdiction to impose a requirement over conduct of the  
 12 motor carrier in the foreign country conflicting with  
 13 a requirement of that country; but

14           “(2) the motor carrier, as a condition of provid-  
 15 ing transportation in the United States, shall comply,  
 16 with respect to all transportation provided between  
 17 Alaska and the other State, with the requirements of  
 18 this part related to rates and practices applicable to  
 19 the transportation.

20   **“§ 13503. Exempt motor vehicle transportation in ter-**  
 21           **minal areas**

22           “(a)(1) Neither the Secretary of Transportation nor  
 23 the Intermodal Surface Transportation Board has jurisdic-  
 24 tion under this subchapter over transportation by motor ve-

1 hicle provided in a terminal area when the transpor-  
 2 tation—

3           “(A) is a transfer, collection, or delivery;

4           “(B) is provided by—

5                 “(i) a rail carrier subject to jurisdiction  
 6                 under chapter 105 of this title;

7                 “(ii) a water carrier subject to jurisdiction  
 8                 under subchapter II of this chapter; or

9                 “(iii) a freight forwarder subject to jurisdic-  
 10                 tion under subchapter III of this chapter; and

11           “(C) is incidental to transportation or service  
 12           provided by the carrier or freight forwarder that is  
 13           subject to jurisdiction under chapter 105 of this title  
 14           or under subchapter II or III of this chapter.

15           “(2) Transportation exempt from jurisdiction under  
 16           paragraph (1) of this subsection is subject to jurisdiction  
 17           under chapter 105 of this title when provided by such a  
 18           rail carrier, under subchapter II of this chapter when pro-  
 19           vided by such a water carrier, and under subchapter III  
 20           of this chapter when provided by such a freight forwarder.

21           “(b)(1) Except to the extent provided by paragraph (2)  
 22           of this subsection, neither the Secretary nor the Transpor-  
 23           tation Board has jurisdiction under this subchapter over  
 24           transportation by motor vehicle provided in a terminal  
 25           area when the transportation—

1           “(A) is a transfer, collection, or delivery; and

2           “(B) is provided by a person as an agent or  
3       under other arrangement for—

4           “(i) a rail carrier subject to jurisdiction  
5       under chapter 105 of this title;

6           “(ii) a motor carrier subject to jurisdiction  
7       under this subchapter;

8           “(iii) a water carrier subject to jurisdiction  
9       under subchapter II of this chapter; or

10          “(iv) a freight forwarder subject to jurisdic-  
11       tion under subchapter III of this chapter.

12       “(2) Transportation exempt from jurisdiction under  
13   paragraph (1) of this subsection is considered transpor-  
14   tation provided by the carrier or service provided by the  
15   freight forwarder for whom the transportation was provided  
16   and is subject to jurisdiction under chapter 105 of this title  
17   when provided for such a rail carrier, under this subchapter  
18   when provided for such a motor carrier, under subchapter  
19   II of this chapter when provided for such a water carrier,  
20   and under subchapter III of this chapter when provided for  
21   such a freight forwarder.

22   **“§13504. Exempt motor carrier transportation en-**  
23       **tirely in one State**

24       “Neither the Secretary of Transportation nor the  
25   Intermodal Surface Transportation Board has jurisdiction

1 *under this subchapter over transportation, except transpor-*  
 2 *tation of household goods, by a motor carrier operating sole-*  
 3 *ly within the State of Hawaii. The State of Hawaii may*  
 4 *regulate transportation exempt from jurisdiction under this*  
 5 *section and, to the extent provided by a motor carrier oper-*  
 6 *ating solely within the State of Hawaii, transportation ex-*  
 7 *empt under section 13503 of this title.*

8 “SUBCHAPTER II—WATER CARRIER TRANSPORTATION

9 “§ 13521. **General jurisdiction**

10 “The Transportation Board has jurisdiction over  
 11 transportation insofar as water carriers are concerned—

12 “(1) by water carrier between a place in a State  
 13 and a place in another State, even if part of the  
 14 transportation is outside the United States;

15 “(2) by water carrier and motor carrier from a  
 16 place in a State to a place in another State, except  
 17 that if part of the transportation is outside the  
 18 United States, the Secretary only has jurisdiction  
 19 over that part of the transportation provided—

20 “(A) by motor carrier that is in the United  
 21 States; and

22 “(B) by water carrier that is from a place  
 23 in the United States to another place in the  
 24 United States; and

1           “(3) by water carrier or by water carrier and  
2           motor carrier between a place in the United States  
3           and a place outside the United States, to the extent  
4           that—

5                   “(A) when the transportation is by motor  
6                   carrier, the transportation is provided in the  
7                   United States;

8                   “(B) when the transportation is by water  
9                   carrier to a place outside the United States, the  
10                  transportation is provided by water carrier from  
11                  a place in the United States to another place in  
12                  the United States before transshipment from a  
13                  place in the United States to a place outside the  
14                  United States; and

15                  “(C) when the transportation is by water  
16                  carrier from a place outside the United States,  
17                  the transportation is provided by water carrier  
18                  from a place in the United States to another  
19                  place in the United States after transshipment to  
20                  a place in the United States from a place outside  
21                  the United States.

22           “SUBCHAPTER III—FREIGHT FORWARDER SERVICE

23   **“§ 13531. General jurisdiction**

24           “(a) The Secretary of Transportation and the Inter-  
25   modal Surface Transportation Board have jurisdiction, as

1 *specified in this part, over service that a freight forwarder*  
 2 *undertakes to provide, or is authorized or required under*  
 3 *this part to provide, to the extent transportation is provided*  
 4 *in the United States and is between—*

5           “(1) *a place in a State and a place in another*  
 6           *State, even if part of the transportation is outside the*  
 7           *United States;*

8           “(2) *a place in a State and another place in the*  
 9           *same State through a place outside the State; or*

10           “(3) *a place in the United States and a place*  
 11           *outside the United States.*

12           “(b) *Neither the Secretary nor the Transportation*  
 13 *Board has jurisdiction under subsection (a) of this section*  
 14 *over service undertaken by a freight forwarder using trans-*  
 15 *portation of an air carrier subject to part A of subtitle VII*  
 16 *of this title.*

17           “SUBCHAPTER IV—AUTHORITY TO EXEMPT

18           **“§ 13541. Authority to exempt transportation or serv-**  
 19           **ices**

20           “(a) *In any matter subject to jurisdiction under this*  
 21 *chapter, the Secretary of Transportation or the Intermodal*  
 22 *Surface Transportation Board, as applicable, shall exempt*  
 23 *a person, class of persons, or a transaction or service from*  
 24 *the application of a provision of this title, or use this ex-*  
 25 *emption authority to modify a provision of this title, when*

1 *the Secretary or Transportation Board finds that the appli-*  
2 *cation of that provision in whole or in part—*

3           “(1) *is not necessary to carry out the transpor-*  
4 *tation policy of section 13101 of this title; and*

5           “(2) *either (A) the transaction or service is of*  
6 *limited scope, or (B) the application of a provision*  
7 *of this title is not needed to protect shippers from the*  
8 *abuse of market power.*

9 *In a proceeding that affects the transportation of household*  
10 *goods described in section 13102(9)(A), the Secretary or the*  
11 *Transportation Board shall also consider whether the ex-*  
12 *emption will be consistent with the transportation policy*  
13 *set forth in section 13101 of this title and will not be det-*  
14 *rimental to the interests of individual shippers.*

15           “(b) *The Secretary or Transportation Board, as appli-*  
16 *cable, may, where appropriate, begin a proceeding under*  
17 *this section on the Secretary’s or Transportation Board’s*  
18 *own initiative or on application by an interested party.*

19           “(c) *The Secretary or Transportation Board, as appli-*  
20 *cable, may specify the period of time during which an ex-*  
21 *emption granted under this section is effective.*

22           “(d) *The Secretary or Transportation Board, as appli-*  
23 *cable, may revoke an exemption, to the extent specified, on*  
24 *finding that application of a provision of this title to the*



1 person, class, or transportation is necessary to carry out  
 2 the transportation policy of section 13101 of this title.

3 “(e) This exemption authority may not be used to re-  
 4 lieve a person (except a person that would have been covered  
 5 by a statutory exemption under subchapter II or IV of chap-  
 6 ter 105 of this title that was repealed by the Interstate Com-  
 7 merce Commission Sunset Act of 1995) from the application  
 8 of, and compliance with, any law, rule, regulation, stand-  
 9 ard, or order pertaining to cargo loss and damage; insur-  
 10 ance; or safety fitness.

11 **“CHAPTER 137—RATES AND THROUGH ROUTES**

12 **“§ 13701. Requirements for reasonable rates, classi-**  
 13 **fications, through routes, rules, and prac-**  
 14 **tices for certain transportation**

15 “(a)(1) A rate, classification, rule, or practice related  
 16 to transportation or service provided by a carrier subject  
 17 to jurisdiction under subchapters I or III of chapter 135  
 18 of this title for transportation or service involving—

19 “(i) a movement of household goods described in  
 20 section 13102(9)(A) of this title, or

21 “(ii) a joint rate for a through movement with  
 22 a water carrier in non-contiguous domestic trade,  
 23 must be reasonable.

1       “(2) Through routes and divisions of joint rates for  
 2 such transportation or service as described in paragraph  
 3 (1) (i) or (ii) must be reasonable.

4       “(b) When the Intermodal Surface Transportation  
 5 Board finds it necessary to stop or prevent a violation of  
 6 subsection (a), the Transportation Board shall prescribe the  
 7 rate, classification, rule, practice, through route, or division  
 8 of joint rates to be applied for such transportation or serv-  
 9 ice.

10   **“§13702. Tariff requirement for certain transpor-**  
 11                               **tation**

12       “(a) A carrier subject to jurisdiction under subchapters  
 13 I or III of chapter 135 of this title may provide transpor-  
 14 tation or service that is—

15               “(1) under a joint rate for a through movement  
 16       in non-contiguous domestic trade, or

17               “(2) for movement of household goods described  
 18       in section 13102(9)(A) of this title,

19 only if the rate for such transportation or service is con-  
 20 tained in a tariff that is in effect under this section. A rate  
 21 contained in a tariff shall be stated in money of the United  
 22 States. The carrier may not charge or receive a different  
 23 compensation for that transportation or service than the  
 24 rate specified in the tariff whether by returning a part of  
 25 that rate to a person, giving a person a privilege, allowing

1 *the use of a facility that affects the value of that transpor-*  
2 *tation or service, or another device.*

3       “(b)(1) *A carrier providing transportation or service*  
4 *described in paragraph (1) of subsection (a) shall publish*  
5 *and file with the Intermodal Surface Transportation Board*  
6 *tariffs containing the rates established for such transpor-*  
7 *tation or service. The Transportation Board may prescribe*  
8 *other information that carriers shall include in such tariffs.*

9       “(2) *Carriers that publish tariffs under this subsection*  
10 *shall keep them open for public inspection.*

11       “(c) *The Transportation Board shall prescribe the*  
12 *form and manner of publishing, filing, and keeping tariffs*  
13 *open for public inspection under subsection (b). The Trans-*  
14 *portation Board may prescribe specific charges to be identi-*  
15 *fied in a tariff published by a carrier, but those tariffs must*  
16 *identify plainly—*

17               “(1) *the carriers that are parties to it;*

18               “(2) *the places between which property will be*  
19 *transported;*

20               “(3) *terminal charges if a carrier providing*  
21 *transportation or service subject to jurisdiction under*  
22 *subchapter III of chapter 135 of this title;*

23               “(4) *privileges given and facilities allowed; and*

24               “(5) *any rules that change, affect, or determine*  
25 *any part of the published rate.*

1       “(d) *The Transportation Board may permit carriers*  
2 *to change rates, classifications, rules, and practices without*  
3 *filing complete tariffs that cover matter that is not being*  
4 *changed when the Transportation Board finds that action*  
5 *to be consistent with the public interest. Those carriers may*  
6 *either—*

7               “(1) *publish new tariffs that incorporate*  
8 *changes, or*

9               “(2) *plainly indicate the proposed changes in the*  
10 *tariffs then in effect and kept open for public inspec-*  
11 *tion.*

12       “(e) *The Transportation Board may reject a tariff sub-*  
13 *mitted to it by a carrier under subsection (b) if that tariff*  
14 *violates this section or regulation of the Transportation*  
15 *Board carrying out this section.*

16       “(f)(1) *A carrier providing transportation described in*  
17 *subsection (a)(2) shall maintain rates and related rules and*  
18 *practices in a published tariff. The tariff must be available*  
19 *for inspection by the Transportation Board and by ship-*  
20 *pers, upon reasonable request, at the offices of the carrier*  
21 *and of each tariff publishing agent of the carrier.*

22       “(2) *A carrier that maintains a tariff and makes it*  
23 *available for inspection as provided in paragraph (1) may*  
24 *not enforce the provisions of the tariff unless the carrier*  
25 *has given notice that the tariff is available for inspection*

1 *in its bill of lading or by other actual notice to individuals*  
 2 *whose shipments are subject to the tariff.*

3       “(3) *A carrier that maintains a tariff under this sub-*  
 4 *section is bound by the tariff except as otherwise provided*  
 5 *in this subtitle. A carrier that does not maintain a tariff*  
 6 *as provided in this subsection may not enforce the tariff*  
 7 *against any individual shipper except as otherwise pro-*  
 8 *vided in this subtitle, and shall not transport household*  
 9 *goods described in section 13102(9)(A).*

10       “(4) *A carrier may incorporate by reference the rates,*  
 11 *terms, and other conditions in a tariff in agreements cover-*  
 12 *ing the transportation of household goods (except those*  
 13 *household goods described in section 13102(9)(A)(i)), if the*  
 14 *tariff is maintained as provided in this subsection and the*  
 15 *agreement gives notice of the incorporation and of the avail-*  
 16 *ability of the tariff for inspection by the commercial ship-*  
 17 *per.*

18       “(5) *A complaint that a rate or related rule or practice*  
 19 *maintained in a tariff under this subsection violates section*  
 20 *13701(a) may be filed with the Transportation Board.*

21       **“§ 13703. Certain collective activities; exemption from**  
 22               **antitrust laws**

23       “(a) *AGREEMENTS.—*

24               “(1) *AUTHORITY TO ENTER.—A motor carrier*  
 25 *providing transportation or service subject to jurisdic-*

1        *tion under chapter 135 may enter into an agreement*  
 2        *with one or more such carriers to establish—*

3                *“(A) through routes and joint rates;*

4                *“(B) rates for the transportation of house-*  
 5        *hold goods described in section 13102(9)(A);*

6                *“(C) classifications;*

7                *“(D) mileage guides;*

8                *“(E) rules;*

9                *“(F) divisions;*

10                *“(G) rate adjustments of general applica-*  
 11        *tion based on industry average carrier costs (so*  
 12        *long as there is no discussion of individual mar-*  
 13        *kets or particular single-line rates); or*

14                *“(H) procedures for joint consideration, ini-*  
 15        *tiation, or establishment of matters described in*  
 16        *subparagraphs (A) through (G).*

17                *“(2) SUBMISSION OF AGREEMENT TO TRANSPOR-*  
 18        *TATION BOARD; APPROVAL.—An agreement entered*  
 19        *into under subsection (a) may be submitted by any*  
 20        *carrier or carriers that are parties to such agreement*  
 21        *to the Transportation Board for approval and may be*  
 22        *approved by the Transportation Board only if it*  
 23        *finds that such agreement is in the public interest.*

24                *“(3) CONDITIONS.—The Transportation Board*  
 25        *may require compliance with reasonable conditions*

1       *consistent with this part to assure that the agreement*  
2       *further the transportation policy set forth in section*  
3       *13101.*

4               “(4) *INVESTIGATIONS.*—*The Transportation*  
5       *Board may suspend and investigate the reasonable-*  
6       *ness of any classification or rate adjustment of gen-*  
7       *eral application made pursuant to an agreement*  
8       *under this section.*

9               “(5) *EFFECT OF APPROVAL.*—*If the Transpor-*  
10       *tation Board approves the agreement or renews ap-*  
11       *proval of the agreement, it may be made and carried*  
12       *out under its terms and under the conditions required*  
13       *by the Transportation Board, and the antitrust laws,*  
14       *as defined in the first section of the Clayton Act (15*  
15       *U.S.C. 12), do not apply to parties and other persons*  
16       *with respect to making or carrying out the agreement.*

17              “(b) *RECORDS.*—*The Transportation Board may re-*  
18       *quire an organization established or continued under an*  
19       *agreement approved under this section to maintain records*  
20       *and submit reports. The Transportation Board, or its dele-*  
21       *gate, may inspect a record maintained under this section,*  
22       *or monitor any organization’s compliance with this section.*

23              “(c) *REVIEW.*—*The Transportation Board may review*  
24       *an agreement approved under this section, on its own ini-*  
25       *tiative or on request, and shall change the conditions of ap-*

1 *proval or terminate it when necessary to protect the public*  
 2 *interest. Action of the Transportation Board under this sec-*  
 3 *tion—*

4           “(1) *approving an agreement,*

5           “(2) *denying, ending, or changing approval,*

6           “(3) *prescribing the conditions on which ap-*  
 7 *proval is granted, or*

8           “(4) *changing those conditions,*

9 *has effect only as related to application of the antitrust laws*  
 10 *referred to in subsection (a).*

11       “(d) *EXPIRATION OF APPROVALS; RENEWALS.—Sub-*  
 12 *ject to subsection (c), approval of an agreement under sub-*  
 13 *section (a) shall expire 3 years after the date of approval*  
 14 *unless renewed under this subsection. The approval may be*  
 15 *renewed upon request of the parties to the agreement if such*  
 16 *parties resubmit the agreement to the Transportation*  
 17 *Board, the agreement is unchanged, and the Transportation*  
 18 *Board approves such renewal. The Transportation Board*  
 19 *shall approve the renewal unless it finds that the renewal*  
 20 *is not in the public interest.*

21       “(e) *EXISTING AGREEMENTS.—Agreements approved*  
 22 *under former section 10706(b) and in effect on the day be-*  
 23 *fore the effective date of this section shall be treated for pur-*  
 24 *poses of this section as approved by the Transportation*  
 25 *Board under this section beginning on such effective date.*



1       “(f) *LIMITATIONS ON STATUTORY CONSTRUCTION.*—

2               “(1) *UNDERCHARGE CLAIMS.*—*Nothing in this*  
3       *section shall serve as a basis for any undercharge*  
4       *claim.*

5               “(2) *OBLIGATION OF SHIPPER.*—*Nothing in this*  
6       *title, the Interstate Commerce Commission Sunset Act*  
7       *of 1995, or any amendments or repeals made by such*  
8       *Act shall be construed as creating any obligation for*  
9       *a shipper based solely on a classification that was on*  
10       *file with the Interstate Commerce Commission or else-*  
11       *where on the day before the effective date of this sec-*  
12       *tion.*

13              “(g) *MILEAGE RATE LIMITATION.*—*No carrier subject*  
14       *to jurisdiction under subchapter I or III of chapter 135 of*  
15       *this title may enforce collection of its mileage rates or classi-*  
16       *fications unless such carrier or forwarder maintains its*  
17       *own independent publication of mileage or classification*  
18       *which can be examined by any interested person upon rea-*  
19       *sonable request or is a participant in a publication of mile-*  
20       *ages or classifications formulated under an agreement ap-*  
21       *proved under this section.*

22              “(h) *SINGLE LINE RATE DEFINED.*—*In this section,*  
23       *the term ‘single line rate’ means a rate, charge, or allowance*  
24       *proposed by a single motor carrier that is applicable only*

1 *over its line and for which the transportation can be pro-*  
2 *vided by that carrier.*

3 ***“§13704. Household goods rates—estimates; guaran-***  
4 ***tees of service***

5 *“(a)(1) Subject to the provisions of paragraph (2) of*  
6 *this subsection, a motor carrier providing transportation*  
7 *of household goods subject to jurisdiction under subchapter*  
8 *I of chapter 135 of this title may establish a rate for the*  
9 *transportation of household goods which is based on the car-*  
10 *rier’s written, binding estimate of charges for providing*  
11 *such transportation.*

12 *“(2) Any rate established under this subsection must*  
13 *be available on a nonpreferential basis to shippers and must*  
14 *not result in charges to shippers which are predatory.*

15 *“(b)(1) Subject to the provisions of paragraph (2) of*  
16 *this subsection, a motor carrier providing transportation*  
17 *of household goods subject to jurisdiction under subchapter*  
18 *I of chapter 135 of this title may establish rates for the*  
19 *transportation of household goods which guarantee that the*  
20 *carrier will pick up and deliver such household goods at*  
21 *the times specified in the contract for such services and pro-*  
22 *vide a penalty or per diem payment in the event the carrier*  
23 *fails to pick up or deliver such household goods at the speci-*  
24 *fied time. The charges, if any, for such guarantee and pen-*

1 *alty provision may vary to reflect one or more options*  
2 *available to meet a particular shipper's needs.*

3       “(2) *Before a carrier may establish a rate for any serv-*  
4 *ice under paragraph (1) of this subsection, the Secretary*  
5 *of Transportation may require such carrier to have in effect*  
6 *and keep in effect, during any period such rate is in effect*  
7 *under such paragraph, a rate for such service which does*  
8 *not guarantee the pick up and delivery of household goods*  
9 *at the times specified in the contract for such services and*  
10 *which does not provide a penalty or per diem payment in*  
11 *the event the carrier fails to pick up or deliver household*  
12 *goods at the specified time.*

13 ***“§13705. Requirements for through routes among***  
14 ***motor carriers of passengers***

15       “(a) *A motor carrier of passengers shall establish*  
16 *through routes with other carriers of the same type and*  
17 *shall establish individual and joint rates applicable to*  
18 *them.*

19       “(b) *A through route between motor carriers providing*  
20 *transportation of passengers subject to jurisdiction under*  
21 *subchapter I of chapter 135 must be reasonable.*

22       “(c) *When the Intermodal Surface Transportation*  
23 *Board finds it necessary to enforce the requirements of this*  
24 *section, the Transportation Board may prescribe through*  
25 *routes and the conditions under which those routes must*

1 *be operated for motor carriers providing transportation of*  
 2 *passengers subject to jurisdiction under subchapter I of*  
 3 *chapter 135.*

4 ***“§ 13706. Liability for payment of rates***

5 *“(a) Liability for payment of rates for transportation*  
 6 *for a shipment of property by a shipper or consignor to*  
 7 *a consignee other than the shipper or consignor, is deter-*  
 8 *mined under this section when the transportation is pro-*  
 9 *vided by motor carrier under this part. When the shipper*  
 10 *or consignor instructs the carrier transporting the property*  
 11 *to deliver it to a consignee that is an agent only, not having*  
 12 *beneficial title to the property, the consignee is liable for*  
 13 *rates billed at the time of delivery for which the consignee*  
 14 *is otherwise liable, but not for additional rates that may*  
 15 *be found to be due after delivery if the consignee gives writ-*  
 16 *ten notice to the delivering carrier before delivery of the*  
 17 *property—*

18 *“(1) of the agency and absence of beneficial title;*

19 *and*

20 *“(2) of the name and address of the beneficial*  
 21 *owner of the property if it is reconsigned or diverted*  
 22 *to a place other than the place specified in the origi-*  
 23 *nal bill of lading.*

24 *“(b) When the consignee is liable only for rates billed*  
 25 *at the time of delivery under subsection (a) of this section,*

1 the shipper or consignor, or, if the property is reconsigned  
 2 or diverted, the beneficial owner is liable for those addi-  
 3 tional rates regardless of the bill of lading or contract under  
 4 which the property was transported. The beneficial owner  
 5 is liable for all rates when the property is reconsigned or  
 6 diverted by an agent but is refused or abandoned at its ulti-  
 7 mate destination if the agent gave the carrier in the  
 8 reconsignment or diversion order a notice of agency and  
 9 the name and address of the beneficial owner. A consignee  
 10 giving the carrier erroneous information about the identity  
 11 of the beneficial owner of the property is liable for the addi-  
 12 tional rates.

13 **“§ 13707. Billing and collecting practices**

14       “(a) A motor carrier subject to jurisdiction under sub-  
 15 chapter I of chapter 135 shall disclose, when a document  
 16 is presented or electronically transmitted for payment to  
 17 the person responsible directly to the motor carrier for pay-  
 18 ment or agent of such responsible person, the actual rates,  
 19 charges, or allowances for any transportation service. No  
 20 person may cause a motor carrier to present false or mis-  
 21 leading information on a document about the actual rate,  
 22 charge, or allowance to any party to the transaction. When  
 23 the actual rate, charge, or allowance is dependent upon the  
 24 performance of a service by a party to the transportation  
 25 arrangement, such as tendering a volume of freight over a

1 *stated period of time, the motor carrier shall indicate in*  
 2 *any document presented for payment to the person respon-*  
 3 *sible directly to the motor carrier that a reduction, allow-*  
 4 *ance, or other adjustment may apply.*

5       “(b) *The Transportation Board shall promulgate regu-*  
 6 *lations that prohibit a motor carrier subject to jurisdiction*  
 7 *under subchapter II of chapter 105 of this title from provid-*  
 8 *ing a reduction in a rate for the provision of transportation*  
 9 *of property to any person other than—*

10               “(1) *the person paying the motor carrier directly*  
 11 *for the transportation service according to the bill of*  
 12 *lading, receipt, or contract; or*

13               “(2) *an agent of the person paying for the trans-*  
 14 *portation.*

15       **“§13708. Procedures for resolving claims involving**  
 16               **unfiled, negotiated transportation rates**

17       “(a) *IN GENERAL.—When a claim is made by a motor*  
 18 *carrier of property (other than a household goods carrier)*  
 19 *providing transportation subject to jurisdiction under sub-*  
 20 *chapter II of chapter 105 of this title (as in effect on the*  
 21 *day before the effective date of this section) or subchapter*  
 22 *I of chapter 135 of this title, by a freight forwarder (other*  
 23 *than a household goods freight forwarder), or by a party*  
 24 *representing such a carrier or freight forwarder regarding*  
 25 *the collection of rates or charges for such transportation in*

1 *addition to those originally billed and collected by the car-*  
 2 *rier or freight forwarder for such transportation, the person*  
 3 *against whom the claim is made may elect to satisfy the*  
 4 *claim under the provisions of subsection (b), (c), or (d),*  
 5 *upon showing that—*

6           “(1) *the carrier or freight forwarder is no longer*  
 7 *transporting property or is transporting property for*  
 8 *the purpose of avoiding the application of this sec-*  
 9 *tion; and*

10           “(2) *with respect to the claim—*

11               “(A) *the person was offered a transpor-*  
 12 *tation rate by the carrier or freight forwarder*  
 13 *other than that legally on file at the time with*  
 14 *the Transportation Board or with the former*  
 15 *Interstate Commerce Commission, as required,*  
 16 *for the transportation service;*

17               “(B) *the person tendered freight to the car-*  
 18 *rier or freight forwarder in reasonable reliance*  
 19 *upon the offered transportation rate;*

20               “(C) *the carrier or freight forwarder did not*  
 21 *properly or timely file with the Transportation*  
 22 *Board or with the former Interstate Commerce*  
 23 *Commission, as required, a tariff providing for*  
 24 *such transportation rate or failed to enter into*  
 25 *an agreement for contract carriage;*

1           “(D) such transportation rate was billed  
2           and collected by the carrier or freight forwarder;  
3           and

4           “(E) the carrier or freight forwarder de-  
5           mands additional payment of a higher rate filed  
6           in a tariff.

7           If there is a dispute as to the showing under para-  
8           graph (1), such dispute shall be resolved by the court  
9           in which the claim is brought. If there is a dispute  
10          as to the showing under paragraph (2), such dispute  
11          shall be resolved by the Intermodal Surface Transpor-  
12          tation Board. Pending the resolution of any such dis-  
13          pute, the person shall not have to pay any additional  
14          compensation to the carrier or freight forwarder. Sat-  
15          isfaction of the claim under subsection (b), (c), or (d)  
16          shall be binding on the parties, and the parties shall  
17          not be subject to chapter 149 of this title or chapter  
18          119 of this title, as such chapter was in effect on the  
19          date before the date of enactment of the Interstate  
20          Commerce Commission Sunset Act of 1995.

21          “(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000  
22          POUNDS OR LESS.—A person from whom the additional le-  
23          gally applicable and effective tariff rate or charges are  
24          sought may elect to satisfy the claim if the shipments each  
25          weighed 10,000 pounds or less, by payment of 20 percent



1 *of the difference between the carrier's applicable and effec-*  
2 *tive tariff rate and the rate originally billed and paid. In*  
3 *the event that a dispute arises as to the rate that was legally*  
4 *applicable to the shipment, such dispute shall be resolved*  
5 *by the Transportation Board .*

6       “(c) *CLAIMS INVOLVING SHIPMENTS WEIGHING MORE*  
7 *THAN 10,000 POUNDS.—A person from whom the addi-*  
8 *tional legally applicable and effective tariff rate or charges*  
9 *are sought may elect to satisfy the claim if the shipments*  
10 *each weighed more than 10,000 pounds, by payment of 15*  
11 *percent of the difference between the carrier's applicable and*  
12 *effective tariff rate and the rate originally billed and paid.*  
13 *In the event that a dispute arises as to the rate that was*  
14 *legally applicable to the shipment, such dispute shall be re-*  
15 *solved by the Transportation Board.*

16       “(d) *CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—*  
17 *Notwithstanding subsections (b) and (c), a person from*  
18 *whom the additional legally applicable and effective tariff*  
19 *rate or charges are sought may elect to satisfy the claim*  
20 *by payment of 5 percent of the difference between the car-*  
21 *rier's applicable and effective tariff rate and the rate origi-*  
22 *nally billed and paid if such person is a public warehouse-*  
23 *man. In the event that a dispute arises as to the rate that*  
24 *was legally applicable to the shipment, such dispute shall*  
25 *be resolved by the Transportation Board.*

1       “(e) *EFFECTS OF ELECTION.*—When a person from  
 2       whom additional legally applicable freight rates or charges  
 3       are sought does not elect to use the provisions of subsection  
 4       (b), (c) or (d), the person may pursue all rights and rem-  
 5       edies existing under this part or, for transportation pro-  
 6       vided before the effective date of this section, all rights and  
 7       remedies that existed under this title on the day before the  
 8       date of enactment of the Interstate Commerce Commission  
 9       Sunset Act of 1995.

10       “(f) *STAY OF ADDITIONAL COMPENSATION.*—When a  
 11       person proceeds under this section to challenge the reason-  
 12       ableness of the legally applicable freight rate or charges  
 13       being claimed by a carrier or freight forwarder described  
 14       in subsection (a) in addition to those already billed and  
 15       collected, the person shall not have to pay any additional  
 16       compensation to the carrier or freight forwarder until the  
 17       Transportation Board has made a determination as to the  
 18       reasonableness of the challenged rate as applied to the  
 19       freight of the person against whom the claim is made.

20       “(g) *NOTIFICATION OF ELECTION.*—

21               “(1) *GENERAL RULE.*—A person must notify the  
 22       carrier or freight forwarder as to its election to pro-  
 23       ceed under subsection (b), (c), or (d). Except as pro-  
 24       vided in paragraphs (2), (3), and (4), such election  
 25       may be made at any time.

1           “(2) *DEMANDS FOR PAYMENT INITIALLY MADE*  
 2           *AFTER DECEMBER 3, 1993.—If the carrier or freight*  
 3           *forwarder or party representing such carrier or*  
 4           *freight forwarder initially demands the payment of*  
 5           *additional freight charges after December 3, 1993,*  
 6           *and notifies the person from whom additional freight*  
 7           *charges are sought of the provisions of subsections (a)*  
 8           *through (f) at the time of the making of such initial*  
 9           *demand, the election must be made not later than the*  
 10          *later of—*

11                       “(A) *the 60th day following the filing of an*  
 12                       *answer to a suit for the collection of such addi-*  
 13                       *tional legally applicable freight rate or charges,*  
 14                       *or*

15                       “(B) *March 5, 1994.*

16           “(3) *PENDING SUITS FOR COLLECTION MADE BE-*  
 17           *FORE DECEMBER 4, 1993.—If the carrier or freight*  
 18           *forwarder or party representing such carrier or*  
 19           *freight forwarder has filed, before December 4, 1993,*  
 20           *a suit for the collection of additional freight charges*  
 21           *and notifies the person from whom additional freight*  
 22           *charges are sought of the provisions of subsections (a)*  
 23           *through (f), the election must be made not later than*  
 24           *the 90th day following the date on which such notifi-*  
 25           *cation is received.*

1           “(4) *DEMANDS FOR PAYMENT MADE BEFORE DE-*  
 2           *CEMBER 4, 1993.—If the carrier or freight forwarder*  
 3           *or party representing such carrier or freight for-*  
 4           *warder has demanded the payment of additional*  
 5           *freight charges, and has not filed a suit for the collec-*  
 6           *tion of such additional freight charges, before Decem-*  
 7           *ber 4, 1993, and notifies the person from whom addi-*  
 8           *tional freight charges are sought of the provisions of*  
 9           *subsections (a) through (f), the election must be made*  
 10          *not later than the later of—*

11                       “(A) *the 60th day following the filing of an*  
 12                       *answer to a suit for the collection of such addi-*  
 13                       *tional legally applicable freight rate or charges,*  
 14                       *or*

15                       “(B) *March 5, 1994.*

16          “(h) *CLAIMS INVOLVING SMALL-BUSINESS CONCERNS,*  
 17          *CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATE-*  
 18          *RIALS.—Notwithstanding subsections (b), (c), and (d), a*  
 19          *person from whom the additional legally applicable and ef-*  
 20          *fective tariff rate or charges are sought shall not be liable*  
 21          *for the difference between the carrier’s applicable and effec-*  
 22          *tive tariff rate and the rate originally billed and paid—*

23                       “(1) *if such person qualifies as a small-business*  
 24                       *concern under the Small Business Act (15 U.S.C. 631*  
 25                       *et seq.),*

1           “(2) if such person is an organization which is  
 2           described in section 501(c)(3) of the Internal Revenue  
 3           Code of 1986 and exempt from tax under section  
 4           501(a) of such Code, or

5           “(3) if the cargo involved in the claim is recycla-  
 6           ble materials. In this provision, ‘recyclable materials’  
 7           means waste products for recycling or reuse in the  
 8           furtherance of recognized pollution control programs.

9           **“§ 13709. Additional motor carrier undercharge provi-**  
 10           **sions**

11           “(a)(1) A motor carrier of property (other than a  
 12           motor carrier providing transportation in noncontiguous  
 13           domestic trade) shall provide to the shipper, on request of  
 14           the shipper, a written or electronic copy of the rate, classi-  
 15           fication, rules, and practices, upon which any rate agreed  
 16           to between the shipper and carrier may have been based.

17           “(2) In those cases where a motor carrier (other than  
 18           a motor carrier providing transportation of household goods  
 19           or in noncontiguous domestic trade) seeks to collect charges  
 20           in addition to those billed and collected which are contested  
 21           by the payor, the carrier may request that the Transpor-  
 22           tation Board determine whether any additional charges  
 23           over those billed and collected must be paid. A carrier must  
 24           issue any bill for charges in addition to those originally

1 *billed within 180 days of the receipt of the original bill in*  
2 *order to have the right to collect such charges.*

3       “(3) *If a shipper seeks to contest the charges originally*  
4 *billed, the shipper may request that the Transportation*  
5 *Board determine whether the charges originally billed must*  
6 *be paid. A shipper must contest the original bill within 180*  
7 *days in order to have the right to contest such charges.*

8       “(4) *Any tariff on file with the Interstate Commerce*  
9 *Commission on August 26, 1994, not required to be filed*  
10 *after that date is null and void beginning on that date.*  
11 *Any tariff on file with the Interstate Commerce Commission*  
12 *on the effective date of the Interstate Commerce Commission*  
13 *Sunset Act of 1995 not required to be filed after that date*  
14 *is null and void beginning on that date.*

15       “(b) *If a motor carrier (other than a motor carrier*  
16 *providing transportation of household goods) subject to ju-*  
17 *risdiction under subchapter I of chapter 135 of this title*  
18 *had authority to provide transportation as both a motor*  
19 *common carrier and a motor contract carrier and a dispute*  
20 *arises as to whether certain transportation that was pro-*  
21 *vided prior to the effective date of the Interstate Commerce*  
22 *Commission Sunset Act of 1995 was provided in its com-*  
23 *mon carrier or contract carrier capacity and the parties*  
24 *are not able to resolve the dispute consensually, the Trans-*  
25 *portation Board shall resolve the dispute.*

1   **“§ 13710. Alternative Procedure for Resolving Under-**  
 2                   **charge Disputes**

3           “(a) *GENERAL RULE.*—*It shall be an unreasonable*  
 4 *practice for a motor carrier of property (other than a house-*  
 5 *hold goods carrier) providing transportation that is subject*  
 6 *to jurisdiction of subchapter I of chapter 135 of this title*  
 7 *or was subject to jurisdiction under subchapter II of chapter*  
 8 *105 of this title, a freight forwarder (other than a household*  
 9 *goods freight forwarder), or a party representing such a*  
 10 *carrier or freight forwarder to attempt to charge or to*  
 11 *charge for a transportation service the difference between—*

12                   “(1) *the applicable rate that was lawfully in ef-*  
 13 *fect pursuant to a tariff that was filed in accordance*  
 14 *with this chapter, or with respect to transportation*  
 15 *provided before the effective date of this section in ac-*  
 16 *cordance with chapter 107 of this title as in effect on*  
 17 *the date the transportation service was provided by*  
 18 *the carrier or freight forwarder applicable to such*  
 19 *transportation service; and*

20                   “(2) *the negotiated rate for such transportation*  
 21 *service if the carrier or freight forwarder is no longer*  
 22 *transporting property between places described in sec-*  
 23 *tion 13501(1) of this title or is transporting property*  
 24 *between places described in section 13501(1) of this*  
 25 *title for the purpose of avoiding the application of*  
 26 *this section.*

1       “(b) *JURISDICTION OF TRANSPORTATION BOARD.*—  
 2   *The Intermodal Surface Transportation Board shall have*  
 3   *jurisdiction to make a determination of whether or not at-*  
 4   *tempting to charge or the charging of a rate by a motor*  
 5   *carrier or freight forwarder or party representing a motor*  
 6   *carrier or freight forwarder is an unreasonable practice*  
 7   *under subsection (a). If the Transportation Board deter-*  
 8   *mines that attempting to charge or the charging of the rate*  
 9   *is an unreasonable practice under subsection (a), the car-*  
 10   *rier, freight forwarder, or party may not collect the dif-*  
 11   *ference described in subsection (a) between the applicable*  
 12   *rate and the negotiated rate for the transportation service.*  
 13   *In making such determination, the Transportation Board*  
 14   *shall consider—*

15           “(1) *whether the person was offered a transpor-*  
 16       *tation rate by the carrier or freight forwarder or*  
 17       *party other than that legally on file with the Trans-*  
 18       *portation Board or with the Interstate Commerce*  
 19       *Commission, as required, at the time of the movement*  
 20       *for the transportation service;*

21           “(2) *whether the person tendered freight to the*  
 22       *carrier or freight forwarder in reasonable reliance*  
 23       *upon the offered transportation rate;*

24           “(3) *whether the carrier or freight forwarder did*  
 25       *not properly or timely file with the Transportation*



1       *Board or with the Interstate Commerce Commission,*  
2       *as required, a tariff providing for such transportation*  
3       *rate or failed to enter into an agreement for contract*  
4       *carriage;*

5               “(4) *whether the transportation rate was billed*  
6       *and collected by the carrier or freight forwarder; and*

7               “(5) *whether the carrier or freight forwarder or*  
8       *party demands additional payment of a higher rate*  
9       *filed in a tariff.*

10       “(c) *STAY OF ADDITIONAL COMPENSATION.—When a*  
11       *person proceeds under this section to challenge the reason-*  
12       *ableness of the practice of a motor carrier, freight forwarder,*  
13       *or party described in subsection (a) to attempt to charge*  
14       *or to charge the difference described in subsection (a) be-*  
15       *tween the applicable rate and the negotiated rate for the*  
16       *transportation service in addition to those charges already*  
17       *billed and collected for the transportation service, the person*  
18       *shall not have to pay any additional compensation to the*  
19       *carrier, freight forwarder, or party until the Transpor-*  
20       *tation Board has made a determination as to the reason-*  
21       *ableness of the practice as applied to the freight of the per-*  
22       *son against whom the claim is made.*

23       “(d) *TREATMENT.—Subsection (a) is an exception to*  
24       *the requirements of section 13702, and for transportation*  
25       *prior to the effective date of the Interstate Commerce Com-*

1 mission Sunset Act of 1995, to the requirements of sections  
 2 10761(a) and 10762 of this title as in effect on the date  
 3 before the date of enactment of the Interstate Commerce  
 4 Commission Sunset Act of 1995, relating to a filed tariff  
 5 rate and other general tariff requirements.

6 “(e) *NONAPPLICABILITY OF NEGOTIATED RATE DIS-*  
 7 *PUTE RESOLUTION PROCEDURE.*—If a person elects to seek  
 8 enforcement of subsection (a) with respect to a rate for a  
 9 transportation or service, section 13708 of this part shall  
 10 not apply to such rate.

11 “(f) *DEFINITIONS.*—For purposes of this section, the  
 12 term ‘negotiated rate’ means a rate, charge, classification,  
 13 or rule agreed upon by a motor carrier or freight forwarder  
 14 and a shipper through negotiations pursuant to which no  
 15 tariff was lawfully and timely filed and for which there  
 16 is written evidence of such agreement.

17 **“§ 13711. Government traffic**

18 “A carrier providing transportation or service for the  
 19 United States Government may transport property or indi-  
 20 viduals for the United States Government without charge  
 21 or at a rate reduced from the applicable commercial rate.  
 22 Section 3709 of the Revised Statutes (41 U.S.C. 5) does not  
 23 apply when transportation for the United States Govern-  
 24 ment can be obtained from a carrier lawfully operating in  
 25 the area where the transportation would be provided.

1 **“§ 13712. Food and grocery transportation**

2 “(a) CERTAIN COMPENSATION PROHIBITED.—Not-  
 3 withstanding any other provision of law, it shall not be un-  
 4 lawful for a seller of food and grocery products using a uni-  
 5 form zone delivered pricing system to compensate a cus-  
 6 tomer who picks up purchased food and grocery products  
 7 at the shipping point of the seller if such compensation is  
 8 available to all customers of the seller on a nondiscrim-  
 9 inatory basis and does not exceed the actual cost to the seller  
 10 of delivery to such customer.

11 “(b) SENSE OF CONGRESS.—It is the sense of the Con-  
 12 gress that any savings accruing to a customer by reason  
 13 of compensation permitted by subsection (a) of this section  
 14 should be passed on to the ultimate consumer.

15 **“CHAPTER 139—REGISTRATION**

16 **“§ 13901. Requirement for registration**

17 “A person may provide transportation or service sub-  
 18 ject to jurisdiction under subchapter I or III of chapter 135  
 19 of this title or be a broker for transportation subject to juris-  
 20 diction under subchapter I of that chapter, only if the per-  
 21 son is currently registered under this chapter to provide the  
 22 transportation or service.

23 **“§ 13902. Registration of motor carriers**

24 “(a)(1) Except as provided in this section, the Sec-  
 25 retary of Transportation shall register a person to provide  
 26 transportation subject to jurisdiction under subchapter I of

1 *chapter 135 of this title as a motor carrier if the Secretary*  
2 *finds that the person is willing and able to comply with—*

3       “(A) *this part, the applicable regulations of the*  
4       *Secretary and the Intermodal Surface Transportation*  
5       *Board, and any safety requirements imposed by the*  
6       *Secretary,*

7       “(B) *the safety fitness requirements established*  
8       *by the Secretary under section 31144 of this title, and*

9       “(C) *the minimum financial responsibility re-*  
10       *quirements established by the Secretary pursuant to*  
11       *sections 13906 and 31128 of this title.*

12       “(2) *The Secretary shall consider and, to the extent*  
13       *applicable, make findings on, any evidence demonstrating*  
14       *that the registrant is unable to comply with the require-*  
15       *ments of subparagraph (A), (B), or (C) of paragraph (1).*

16       “(3) *The Secretary shall find any registrant as a*  
17       *motor carrier under this section to be unfit if the registrant*  
18       *does not meet the fitness requirements under paragraph (1)*  
19       *of this subsection and shall withhold registration.*

20       “(4) *The Secretary may hear a complaint from any*  
21       *person concerning a registration under this subsection only*  
22       *on the ground that the registrant fails or will fail to comply*  
23       *with this part, the applicable regulations of the Secretary*  
24       *and the Transportation Board, the safety requirements of*  
25       *the Secretary, or the safety fitness or minimum financial*

1 *responsibility requirements of paragraph (1) of this sub-*  
 2 *section.*

3 “(b) *MOTOR CARRIERS OF PASSENGERS.*—

4 “(1) *REGISTRATION OF PRIVATE RECIPIENTS OF*  
 5 *GOVERNMENT ASSISTANCE.*—*The Secretary shall reg-*  
 6 *ister under subsection (a)(1) a private recipient of*  
 7 *governmental assistance to provide special or charter*  
 8 *transportation subject to jurisdiction under sub-*  
 9 *chapter I of chapter 135 as a motor carrier of pas-*  
 10 *sengers if the Secretary finds that the recipient meets*  
 11 *the requirements of subsection (a)(1), unless the Sec-*  
 12 *retary finds, on the basis of evidence presented by any*  
 13 *person objecting to the registration, that the transpor-*  
 14 *tation to be provided pursuant to the registration is*  
 15 *not in the public interest.*

16 “(2) *REGISTRATION OF PUBLIC RECIPIENTS OF*  
 17 *GOVERNMENTAL ASSISTANCE.*—

18 “(A) *CHARTER TRANSPORTATION.*—*The*  
 19 *Secretary shall register under subsection (a)(1) a*  
 20 *public recipient of governmental assistance to*  
 21 *provide special or charter transportation subject*  
 22 *to jurisdiction under subchapter I of chapter 135*  
 23 *as a motor carrier of passengers if the Secretary*  
 24 *finds that—*

1           “(i) the recipient meets the require-  
2           ments of subsection (a)(1); and

3           “(ii)(I) no motor carrier of passengers  
4           (other than a motor carrier of passengers  
5           which is a public recipient of governmental  
6           assistance) is providing, or is willing to  
7           provide, the transportation; or

8           “(II) the transportation is to be pro-  
9           vided entirely in the area in which the pub-  
10          lic recipient provides regularly scheduled  
11          mass transportation services.

12          “(B) *REGULAR-ROUTE TRANSPORTATION.*—  
13          *The Secretary shall register under subsection*  
14          *(a)(1) a public recipient of governmental assist-*  
15          *ance to provide regular-route transportation sub-*  
16          *ject to jurisdiction under subchapter I of chapter*  
17          *135 as a motor carrier of passengers if the Sec-*  
18          *retary finds that the recipient meets the require-*  
19          *ments of subsection (a)(1), unless the Secretary*  
20          *finds, on the basis of evidence presented by any*  
21          *person objecting to the registration, that the*  
22          *transportation to be provided pursuant to the*  
23          *registration is not in the public interest.*

24          “(C) *TREATMENT OF CERTAIN PUBLIC RE-*  
25          *CIPIENTS.*—*Any public recipient of governmental*

1       *assistance which is providing or seeking to pro-*  
 2       *vide transportation of passengers subject to juris-*  
 3       *isdiction under subchapter I of chapter 135 shall,*  
 4       *for purposes of this part, be treated as a person*  
 5       *which is providing or seeking to provide trans-*  
 6       *portation of passengers subject to such jurisdic-*  
 7       *tion.*

8       “(3) *INTRASTATE TRANSPORTATION BY INTER-*  
 9       *STATE CARRIERS.—A motor carrier of passengers that*  
 10       *is registered by the Secretary under subsection (a) is*  
 11       *authorized to provide regular-route transportation en-*  
 12       *tirely in one State as a motor carrier of passengers*  
 13       *if such intrastate transportation is to be provided on*  
 14       *a route over which the carrier provides interstate*  
 15       *transportation of passengers.*

16       “(4) *JURISDICTION OVER CERTAIN INTRASTATE*  
 17       *TRANSPORTATION.—Any intrastate transportation*  
 18       *authorized under this subsection, except as provided*  
 19       *in section 14501, shall be deemed to be transportation*  
 20       *subject to jurisdiction under subchapter I of chapter*  
 21       *135 of this title until such time, not later than 30*  
 22       *days after the date on which a motor carrier of pas-*  
 23       *sengers first begins providing transportation entirely*  
 24       *in one State pursuant to this paragraph, as the car-*  
 25       *rier takes such action as is necessary to establish*

1        *under the laws of such State rates, rules, and prac-*  
 2        *tices applicable to such transportation.*

3            “(5) *SPECIAL OPERATIONS.—This subsection*  
 4        *shall not apply to any regular-route transportation of*  
 5        *passengers provided entirely in one State which is in*  
 6        *the nature of a special operation.*

7            “(6) *REVOCATION OF AUTHORITY FOR INTRA-*  
 8        *STATE TRANSPORTATION.—Notwithstanding para-*  
 9        *graph (3) of this subsection, intrastate transportation*  
 10       *authorized under this subsection may be suspended or*  
 11       *revoked by the Secretary under section 13905 of this*  
 12       *title at any time.*

13           “(7) *PREEMPTION OF STATE REGULATION.—No*  
 14        *State or political subdivision thereof and no inter-*  
 15        *state agency or other political agency of two or more*  
 16        *States shall enact or enforce any law, rule, regulation,*  
 17        *standard or other provision having the force and ef-*  
 18        *fect of law relating to the provision of pickup and de-*  
 19        *livery of express packages, newspapers, or mail in a*  
 20        *commercial zone if the shipment has had or will have*  
 21        *a prior or subsequent movement by bus in intrastate*  
 22        *commerce and, if a city within the commercial zone,*  
 23        *is served by a motor carrier of passengers providing*  
 24        *regular-route transportation of passengers subject to*



1       *jurisdiction under subchapter I of chapter 135 of this*  
 2       *title.*

3               “(8) *DEFINITIONS.—In this subsection, the fol-*  
 4       *lowing definitions apply:*

5               “(A) *PUBLIC RECIPIENT OF GOVERNMENTAL*  
 6       *ASSISTANCE.—The term ‘public recipient of gov-*  
 7       *ernmental assistance’ means—*

8                       “(i) *any State,*

9                       “(ii) *any municipality or other politi-*  
 10       *cal subdivision of a State,*

11                      “(iii) *any public agency or instrumen-*  
 12       *tality of one or more states and municipali-*  
 13       *ties and political subdivisions of a State,*

14                      “(iv) *any Indian tribe,*

15                      “(v) *any corporation, board, or other*  
 16       *person owned or controlled by any entity*  
 17       *described in clause (i), (ii), (iii), or (iv),*  
 18       *and*

19       *which, before, on, or after the effective date of*  
 20       *this subsection received governmental assistance*  
 21       *for the purchase or operation of any bus.*

22               “(B) *PRIVATE RECIPIENT OF GOVERNMENT*  
 23       *ASSISTANCE.—The term ‘private recipient of gov-*  
 24       *ernment assistance’ means any person (other*  
 25       *than a person described in subparagraph (A))*

1           *who before, on or after the effective date of this*  
 2           *paragraph received governmental financial as-*  
 3           *sistance in the form of a subsidy for the pur-*  
 4           *chase, lease, or operation of any bus.*

5           “(c) *RESTRICTIONS ON MOTOR CARRIERS DOMICILED*  
 6 *IN OR OWNED OR CONTROLLED BY NATIONALS OF A CON-*  
 7 *TIGUOUS FOREIGN COUNTRY.—*

8           “(1) *If the President of the United States, or his*  
 9           *or her delegate, determines that an act, policy, or*  
 10           *practice of a foreign country contiguous to the United*  
 11           *States, or any political subdivision or any instrumen-*  
 12           *tality of any such country is unreasonable or dis-*  
 13           *criminatory and burdens or restricts United States*  
 14           *transportation companies providing, or seeking to*  
 15           *provide, motor carrier transportation of property or*  
 16           *passengers to, from, or within such foreign country,*  
 17           *the President, or his or her delegate, may—*

18           “(A) *seek elimination of such practices*  
 19           *through consultations; or*

20           “(B) *notwithstanding any other provision*  
 21           *of law, suspend, modify, amend, condition, or re-*  
 22           *strict operations, including geographical restric-*  
 23           *tion of operations, in the United States by motor*  
 24           *carriers of property or passengers domiciled in*

1           *such foreign country or owned or controlled by*  
2           *persons of such foreign country.*

3           “(2) *Any action taken under paragraph (1)(A)*  
4           *to eliminate an act, policy, or practice shall be so de-*  
5           *vised so as to equal to the extent possible the burdens*  
6           *or restrictions imposed by such foreign country on*  
7           *United States transportation companies.*

8           “(3) *The President, or his or her delegate, may*  
9           *remove or modify in whole or in part any action*  
10          *taken under paragraph (1)(A) if the President, or his*  
11          *or her delegate, determines that such removal or*  
12          *modification is consistent with the obligations of the*  
13          *United States under a trade agreement or with*  
14          *United States transportation policy.*

15          “(4) *Unless and until the President or his or her*  
16          *delegate makes a determination under paragraphs (1)*  
17          *or (3) above, nothing in this subsection shall affect—*

18               “(A) *operations of motor carriers of prop-*  
19               *erty or passengers domiciled in any contiguous*  
20               *foreign country or owned or controlled by per-*  
21               *sons of any contiguous foreign country permitted*  
22               *in the commercial zones along the U.S.-Mexico*  
23               *border as defined at the time of enactment of the*  
24               *Interstate Commerce Commission Sunset Act of*  
25               *1995; or*

1           “(B) any existing restrictions on operations  
2           of motor carriers of property or passengers domi-  
3           ciled in any contiguous foreign country or owned  
4           or controlled by persons of any contiguous for-  
5           eign country or any modifications thereof pursu-  
6           ant to section 6 of the Bus Regulatory Reform  
7           Act of 1982.

8           “(5) Unless the President, or his or her delegate,  
9           determines that expeditious action is required, the  
10          President shall publish in the Federal Register any  
11          determination under paragraphs (1) or (3) together  
12          with a description of the facts on which such a deter-  
13          mination is based and any proposed action to be  
14          taken pursuant to paragraphs (1)(B) or (3) and pro-  
15          vide an opportunity for public comments.

16          “(6) The President may delegate any or all au-  
17          thority under this subsection to the Secretary of  
18          Transportation, who shall consult with other agencies  
19          as appropriate. In accordance with the directions of  
20          the President, the Secretary of Transportation may  
21          issue regulations to enforce this subsection.

22          “(7) Either the Secretary of Transportation or  
23          the Attorney General may bring a civil action in an  
24          appropriate district court of the United States to en-  
25          force this subsection or a regulation prescribed or

1       order issued under this subsection. The court may  
2       award appropriate relief, including injunctive relief.

3           “(8) This subsection shall not affect the require-  
4       ment for all foreign motor carriers and foreign motor  
5       private carriers operating in the United States to  
6       fully comply with all applicable laws and regulations  
7       pertaining to fitness; safety of operations; financial  
8       responsibility; and taxes imposed by section 4481 of  
9       the Internal Revenue Code of 1994.

10    **“§ 13903. Registration of freight forwarders**

11       “(a) The Secretary of Transportation shall register a  
12       person to provide service subject to jurisdiction under sub-  
13       chapter III of chapter 135 as a freight forwarder, if the  
14       Secretary finds that the person is fit, willing, and able to  
15       provide the service and to comply with this part and appli-  
16       cable regulations of the Secretary and the Intermodal Sur-  
17       face Transportation Board.

18       “(b) The freight forwarder may provide transportation  
19       as the carrier itself only if the freight forwarder also has  
20       been registered to provide transportation as a carrier under  
21       this chapter.

22    **“§ 13904. Registration of motor carrier brokers**

23       “(a) The Secretary of Transportation shall register,  
24       subject to section 13906(b) of this title, a person to be a  
25       broker for transportation of property subject to jurisdiction

1 under subchapter I of chapter 135 of this title, if the Sec-  
2 retary finds that the person is fit, willing, and able to be  
3 a broker for transportation and to comply with this part  
4 and applicable regulations of the Secretary .

5 “(b)(1) The broker may provide the transportation it-  
6 self only if the broker also has been registered to provide  
7 the transportation under this chapter.

8 “(2) This subsection does not apply to a motor carrier  
9 registered under this chapter or to an employee or agent  
10 of the motor carrier to the extent the transportation is to  
11 be provided entirely by the motor carrier, with other reg-  
12 istered motor carriers, or with rail or water carriers.

13 “(c) Regulations of the Secretary shall provide for the  
14 protection of shippers by motor vehicle, to be observed by  
15 brokers.

16 “(d) The Secretary may impose on brokers for motor  
17 carriers of passengers such requirements for bonds or insur-  
18 ance or both as the Secretary determines are needed to pro-  
19 tect passengers and carriers dealing with such brokers.

20 **“§ 13905. Effective periods of registration**

21 “(a) Each registration under section 13902, 13903, or  
22 13904 of this title is effective from the date specified by the  
23 Secretary of Transportation and remains in effect for a pe-  
24 riod of 5 years except as otherwise provided in this section  
25 or in section 13906. The Secretary may require any carrier

1 *or registrant to provide periodic updating of carrier infor-*  
2 *mation.*

3       “(b) *On application of the holder, the Secretary may*  
4 *amend or revoke a registration. On complaint or on the*  
5 *Secretary’s own initiative and after notice and an oppor-*  
6 *tunity for a proceeding, the Secretary may suspend, amend,*  
7 *or revoke any part of the registration of a motor carrier,*  
8 *broker, or freight forwarder for willful failure to comply*  
9 *with this part, an applicable regulation or order of the Sec-*  
10 *retary or of the Intermodal Surface Transportation Board,*  
11 *or a condition of its registration.*

12       “(c)(1) *Except on application of the holder, the Sec-*  
13 *retary may revoke a registration of a motor carrier, freight*  
14 *forwarder, or broker, only after the Secretary has issued an*  
15 *order to the holder under section 14701 of this title requir-*  
16 *ing compliance with this part, a regulation of the Secretary,*  
17 *or a condition of the registration of the holder, and the hold-*  
18 *er willfully does not comply with the order.*

19       “(2) *The Secretary may act under paragraph (1) of*  
20 *this subsection only after giving the holder of the registra-*  
21 *tion at least 30 days to comply with the order.*

22       “(d)(1) *Without regard to subchapter II of chapter 5*  
23 *of title 5, the Secretary may suspend the registration of a*  
24 *motor carrier, a freight forwarder, or a broker for failure*  
25 *to comply with safety requirements of the Secretary or the*

1 *safety fitness requirements pursuant to section 13904(c),*  
 2 *13906, or 31144, of this title, or an order or regulation of*  
 3 *the Secretary prescribed under those sections.*

4       “(2) *Without regard to subchapter II of chapter 5 of*  
 5 *title 5, the Secretary may suspend a registration of a motor*  
 6 *carrier of passengers if the Secretary finds that such carrier*  
 7 *is conducting unsafe operations which are an imminent*  
 8 *hazard to public health or property.*

9       “(3) *The Secretary may suspend the registration only*  
 10 *after giving notice of the suspension to the holder. The sus-*  
 11 *pension remains in effect until the holder complies with*  
 12 *those applicable sections or, in the case of a suspension*  
 13 *under paragraph (2) of this subsection, until the Secretary*  
 14 *revokes such suspension.*

15       **“§ 13906. Security of motor carriers, brokers, and**  
 16               **freight forwarders**

17       “(a)(1) *The Secretary of Transportation may register*  
 18 *a motor carrier under section 13902 only if the registering*  
 19 *carrier (including a foreign motor carrier, and a foreign*  
 20 *motor private carrier) files with the Secretary a bond, in-*  
 21 *surance policy, or other type of security approved by the*  
 22 *Secretary, in an amount not less than such amount as the*  
 23 *Secretary prescribes pursuant to, or as is required by, sec-*  
 24 *tions 31138 and 31139 of this title, and the laws of the*  
 25 *State or States in which the carrier is operating, to the*



1 *extent applicable. The security must be sufficient to pay,*  
2 *not more than the amount of the security, for each final*  
3 *judgment against the carrier for bodily injury to, or death*  
4 *of, an individual resulting from the negligent operation,*  
5 *maintenance, or use of motor vehicles, or for loss or damage*  
6 *to property (except property referred to in paragraph (3)*  
7 *of this subsection), or both. A registration remains in effect*  
8 *only as long as the carrier continues to satisfy the security*  
9 *requirements of this paragraph.*

10       “(2) *A motor carrier and a foreign motor private car-*  
11 *rier and foreign motor carrier operating in the United*  
12 *States (when providing transportation between places in a*  
13 *foreign country or between a place in one foreign country*  
14 *and a place in another foreign country) shall comply with*  
15 *the requirements of sections 13303 and 13304. To protect*  
16 *the public, the Secretary may require any such motor car-*  
17 *rier to file the type of security that a motor carrier is re-*  
18 *quired to file under paragraph (1) of this subsection.*

19       “(3) *The Secretary may require a registered motor car-*  
20 *rier to file with the Secretary a type of security sufficient*  
21 *to pay a shipper or consignee for damage to property of*  
22 *the shipper or consignee placed in the possession of the*  
23 *motor carrier as the result of transportation provided under*  
24 *this part. A carrier required by law to pay a shipper or*  
25 *consignee for loss, damage, or default for which a connecting*

1 *motor carrier is responsible is subrogated, to the extent of*  
2 *the amount paid, to the rights of the shipper or consignee*  
3 *under any such security.*

4       “(b) *The Secretary may register a person as a broker*  
5 *under section 13904 of this title only if the person files with*  
6 *the Secretary a bond, insurance policy, or other type of se-*  
7 *curity approved by the Secretary to ensure that the trans-*  
8 *portation for which a broker arranges is provided. The reg-*  
9 *istration remains in effect only as long as the broker contin-*  
10 *ues to satisfy the security requirements of this subsection.*

11       “(c)(1) *The Secretary may register a person as a*  
12 *freight forwarder under section 13903 of this title only if*  
13 *the person files with the Secretary a bond, insurance policy,*  
14 *or other type of security approved by the Secretary. The*  
15 *security must be sufficient to pay, not more than the*  
16 *amount of the security, for each final judgment against the*  
17 *freight forwarder for bodily injury to, or death of, an indi-*  
18 *vidual, or loss of, or damage to, property (other than prop-*  
19 *erty referred to in paragraph (2) of this subsection), result-*  
20 *ing from the negligent operation, maintenance, or use of*  
21 *motor vehicles by or under the direction and control of the*  
22 *freight forwarder when providing transfer, collection, or de-*  
23 *livery service under this part.*

24       “(2) *The Secretary may require a registered freight*  
25 *forwarder to file with the Secretary a bond, insurance pol-*

1    *icy, or other type of security approved by the Secretary suf-*  
2    *ficient to pay, not more than the amount of the security,*  
3    *for loss of, or damage to, property for which the freight for-*  
4    *warder provides service.*

5        *“(3) The freight forwarder’s registration remains in ef-*  
6    *fect only as long as the freight forwarder continues to satisfy*  
7    *the security requirements of this subsection.*

8        *“(d) The Secretary may determine the type and*  
9    *amount of security filed under this section. A motor carrier*  
10    *may submit proof of qualifications as a self-insurer to sat-*  
11    *isfy the security requirements of this section. The Secretary*  
12    *shall adopt regulations governing the standards for ap-*  
13    *proval as a self-insurer. Motor carriers which have been*  
14    *granted authority to self-insure as of the date of enactment*  
15    *of the Interstate Commerce Commission Sunset Act of 1995*  
16    *shall retain that authority unless, for good cause shown and*  
17    *after notice and an opportunity for a hearing, the Secretary*  
18    *finds that the authority must be revoked.*

19        *“(e) The Secretary shall promulgate regulations re-*  
20    *quiring the submission to the Secretary of notices of insur-*  
21    *ance cancellation sufficiently in advance of actual cancella-*  
22    *tion so as to enable the Secretary to promptly revoke the*  
23    *registration of any carrier or broker after the effective date*  
24    *of the cancellation. The Secretary shall also prescribe the*  
25    *appropriate form of endorsement to be appended to policies*

1 of insurance and surety bonds which will subject the insur-  
 2 ance policy or surety bond to the full security limits of the  
 3 coverage required under this section.

4 **“§ 13907. Household goods agents**

5       “(a) Each motor carrier providing transportation of  
 6 household goods subject to jurisdiction under subchapter I  
 7 of chapter 135 of this title shall be responsible for all acts  
 8 or omissions of any of its agents which relate to the per-  
 9 formance of household goods transportation services (includ-  
 10 ing accessorial or terminal services) subject to jurisdiction  
 11 under subchapter I of chapter 135 of this title and which  
 12 are within the actual or apparent authority of the agent  
 13 from the carrier or which are ratified by the carrier.

14       “(b) Each motor carrier providing transportation of  
 15 household goods subject to jurisdiction under subchapter I  
 16 of chapter 135 of this title shall use due diligence and rea-  
 17 sonable care in selecting and maintaining agents who are  
 18 sufficiently knowledgeable, fit, willing, and able to provide  
 19 adequate household goods transportation services (including  
 20 accessorial and terminal services) and to fulfill the obliga-  
 21 tions imposed upon them by this part and by such carrier.

22       “(c)(1) Whenever the Secretary of Transportation has  
 23 reason to believe from a complaint or investigation that an  
 24 agent providing household goods transportation services  
 25 (including accessorial and terminal services) under the au-

1 *thority of a motor carrier providing transportation of*  
2 *household goods subject to jurisdiction under subchapter I*  
3 *of chapter 135 of this title has violated section 14901(e) or*  
4 *14912 of this title or is consistently not fit, willing, and*  
5 *able to provide adequate household goods transportation*  
6 *services (including accessorial and terminal services), the*  
7 *Secretary may issue to such agent a complaint stating the*  
8 *charges and containing notice of the time and place of a*  
9 *hearing which shall be held no later than 60 days after serv-*  
10 *ice of the complaint to such agent.*

11       “(2) *Such agent shall have the right to appear at such*  
12 *hearing and rebut the charges contained in the complaint.*

13       “(3) *If such person does not appear at the hearing or*  
14 *if the Secretary finds that the agent has violated section*  
15 *14901(e) or 14912 of this title or is consistently not fit,*  
16 *willing, and able to provide adequate household goods trans-*  
17 *portation services (including accessorial and terminal serv-*  
18 *ices), the Secretary may issue an order to compel compli-*  
19 *ance with the requirement that the agent be fit, willing, and*  
20 *able. Thereafter, the Secretary may issue an order to limit,*  
21 *condition, or prohibit such agent from any involvement in*  
22 *the transportation or provision of services incidental to the*  
23 *transportation of household goods subject to jurisdiction*  
24 *under subchapter I of chapter 135 of this title if, after notice*  
25 *and an opportunity for a hearing, the Secretary finds that*

1 *such agent, within a reasonable time after the date of issu-*  
2 *ance of a compliance order under this section, but in no*  
3 *event less than 30 days after such date of issuance, has will-*  
4 *fully failed to comply with such order.*

5       “(4) *Upon filing of a petition with the Secretary by*  
6 *an agent who is the subject of an order issued pursuant*  
7 *to the second sentence of paragraph (3) of this subsection*  
8 *and after notice, a hearing shall be held with an oppor-*  
9 *tunity to be heard. At such hearing, a determination shall*  
10 *be made whether the order issued pursuant to paragraph*  
11 *(3) of this subsection should be rescinded.*

12       “(5) *Any agent adversely affected or aggrieved by an*  
13 *order of the Secretary issued under this subsection may seek*  
14 *relief in the appropriate United States court of appeals as*  
15 *provided by and in the manner prescribed in chapter 158*  
16 *of title 28, United States Code.*

17       “(d) *The antitrust laws, as defined in the first section*  
18 *of the Clayton Act (15 U.S.C. 12), do not apply to discus-*  
19 *sions or agreements between a motor carrier providing*  
20 *transportation of household goods subject to jurisdiction*  
21 *under subchapter I of chapter 135 of this title and its agents*  
22 *(whether or not an agent is also a carrier) related solely*  
23 *to (1) rates for the transportation of household goods under*  
24 *the authority of the principal carrier, (2) accessorial, termi-*  
25 *nal, storage, or other charges for services incidental to the*

1 *transportation of household goods transported under the au-*  
 2 *thority of the principal carrier, (3) allowances relating to*  
 3 *transportation of household goods under the authority of the*  
 4 *principal carrier, and (4) ownership of a motor carrier pro-*  
 5 *viding transportation of household goods subject to jurisdic-*  
 6 *tion under subchapter I of chapter 135 of this title by an*  
 7 *agent or membership on the board of directors of any such*  
 8 *motor carrier by an agent.*

9 ***“§ 13908. Registration and other reforms***

10 *“(a) IN GENERAL.—Within 18 months after the date*  
 11 *of enactment of the Interstate Commerce Commission Sun-*  
 12 *set Act of 1995, the Secretary, in cooperation with the*  
 13 *States, industry groups, and other interested parties shall*  
 14 *conduct a study to determine whether, and to what extent,*  
 15 *the current Department of Transportation identification*  
 16 *number system, the single State registration system under*  
 17 *section 14505, the registration system contained in this*  
 18 *chapter, and the financial responsibility information sys-*  
 19 *tem under section 13906, should be modified or replaced*  
 20 *with a single, on-line Federal system.*

21 *“(b) FACTORS TO BE CONSIDERED.—In conducting*  
 22 *the rulemaking under subsection (a), the Secretary shall,*  
 23 *at a minimum, consider the following factors:*

24 *“(1) Funding for State enforcement of motor car-*  
 25 *rier safety regulations.*

1           “(2) *Whether the existing single State registra-*  
 2           *tion system is duplicative and burdensome.*

3           “(3) *The justification and need for collecting the*  
 4           *statutory fee for such system under section 145-*  
 5           *5(c)(2)(B)(iv).*

6           “(4) *The public safety.*

7           “(5) *The efficient delivery of transportation serv-*  
 8           *ices.*

9           “(6) *How, and under what conditions, to extend*  
 10          *the registration system to motor private carriers and*  
 11          *to carriers exempt under sections 13502, 13503, and*  
 12          *13506.*

13          “(c) *FEE SYSTEM.—The Secretary may consider*  
 14          *whether to establish, under section 9701 of title 31, a fee*  
 15          *system for registration and filing evidence of financial re-*  
 16          *sponsibility under the new system under subsection (a).*

17          “(d) *DEADLINE.—The Secretary shall conclude the*  
 18          *study under this section within 18 months and report to*  
 19          *Congress on the findings, together with recommendations*  
 20          *for any appropriate legislative changes that may be needed.*

21          **“CHAPTER 141—OPERATIONS OF CARRIERS**

22                **“SUBCHAPTER I—GENERAL REQUIREMENTS**

23          **“§ 14101. Providing transportation and service**

24                “(a) *A carrier providing transportation or service sub-*  
 25          *ject to jurisdiction under chapter 135 of this title shall pro-*



1 *vide the transportation or service on reasonable request. In*  
2 *addition, a motor carrier shall provide safe and adequate*  
3 *service, equipment, and facilities.*

4       “(b) *A carrier providing transportation or service sub-*  
5 *ject to jurisdiction under chapter 135 of this title may enter*  
6 *into a contract with a shipper, other than a shipper of*  
7 *household goods described in section 13102(9)(A), to provide*  
8 *specified services under specified rates and conditions. If*  
9 *the shipper and carrier in writing expressly waives any*  
10 *or all rights and remedies under this part for the transpor-*  
11 *tation covered by the contract, the transportation provided*  
12 *under that contract shall not be subject to those provisions*  
13 *of this part, and may not be subsequently challenged on*  
14 *the ground that it violates such provision. The parties may*  
15 *not waive the provisions governing registration, insurance,*  
16 *or safety fitness. The exclusive remedy for any alleged*  
17 *breach of a contract entered into under this subsection shall*  
18 *be an action in an appropriate State court or United States*  
19 *district court, unless the parties otherwise agree.*

20 **“§ 14102. Leased motor vehicles**

21       “(a) *The Secretary of Transportation may require a*  
22 *motor carrier providing transportation subject to jurisdic-*  
23 *tion under subchapter I of chapter 135 of this title that*  
24 *uses motor vehicles not owned by it to transport property*  
25 *under an arrangement with another party to—*

1           “(1) make the arrangement in writing signed by  
2           the parties specifying its duration and the compensa-  
3           tion to be paid by the motor carrier;

4           “(2) carry a copy of the arrangement in each  
5           motor vehicle to which it applies during the period  
6           the arrangement is in effect;

7           “(3) inspect the motor vehicles and obtain liabil-  
8           ity and cargo insurance on them; and

9           “(4) have control of and be responsible for oper-  
10          ating those motor vehicles in compliance with require-  
11          ments prescribed by the Secretary on safety of oper-  
12          ations and equipment, and with other applicable law  
13          as if the motor vehicles were owned by the motor car-  
14          rier.

15          “(b) The Secretary shall require, by regulation, that  
16          any arrangement, between a motor carrier of property pro-  
17          viding transportation subject to jurisdiction under sub-  
18          chapter I of chapter 135 of this title and any other person,  
19          under which such other person is to provide any portion  
20          of such transportation by a motor vehicle not owned by the  
21          carrier shall specify, in writing, who is responsible for load-  
22          ing and unloading the property onto and from the motor  
23          vehicle.

1    **“§ 14103. Loading and unloading motor vehicles**

2           “(a) Whenever a shipper or receiver of property re-  
3   quires that any person who owns or operates a motor vehicle  
4   transporting property in interstate commerce (whether or  
5   not such transportation is subject to jurisdiction under sub-  
6   chapter I of chapter 135 of this title) be assisted in the load-  
7   ing or unloading of such vehicle, the shipper or receiver  
8   shall be responsible for providing such assistance or shall  
9   compensate the owner or operator for all costs associated  
10  with securing and compensating the person or persons pro-  
11  viding such assistance.

12          “(b) It shall be unlawful to coerce or attempt to coerce  
13  any person providing transportation of property by motor  
14  vehicle for compensation in interstate commerce (whether  
15  or not such transportation is subject to jurisdiction under  
16  subchapter I of chapter 135 of this title) to load or unload  
17  any part of such property onto or from such vehicle or to  
18  employ or pay one or more persons to load or unload any  
19  part of such property onto or from such vehicle, except that  
20  this subsection shall not be construed as making unlawful  
21  any activity which is not unlawful under the National  
22  Labor Relations Act or the Act of March 23, 1932 (47 Stat.  
23  70; 29 U.S.C. 101 et seq.), commonly known as the Norris-  
24  LaGuardia Act.

1    **“§ 14104. Household goods carrier operations**

2           “(a)(1) *The Secretary of Transportation may issue*  
3 *regulations, including regulations protecting individual*  
4 *shippers, in order to carry out this part with respect to*  
5 *the transportation of household goods by motor carriers sub-*  
6 *ject to jurisdiction under subchapter I of chapter 135 of this*  
7 *title. The regulations and paperwork required of motor car-*  
8 *riers providing transportation of household goods shall be*  
9 *minimized to the maximum extent feasible consistent with*  
10 *the protection of individual shippers.*

11          “(2) *Regulations of the Secretary protecting individual*  
12 *shippers shall include, where appropriate, reasonable per-*  
13 *formance standards for the transportation of household*  
14 *goods subject to jurisdiction under subchapter I of chapter*  
15 *135 of this title. In establishing performance standards*  
16 *under this paragraph, the Secretary shall take into account*  
17 *at least the following:*

18               “(A) *The level of performance that can be*  
19               *achieved by a well-managed motor carrier transport-*  
20               *ing household goods.*

21               “(B) *The degree of harm to individual shippers*  
22               *which could result from a violation of the regulation.*

23               “(C) *The need to set the level of performance at*  
24               *a level sufficient to deter abuses which result in harm*  
25               *to consumers and violations of regulations.*

26               “(D) *Service requirements of the carriers.*

1           “(E) *The cost of compliance in relation to the*  
2           *consumer benefits to be achieved from such compli-*  
3           *ance.*

4           “(F) *The need to set the level of performance at*  
5           *a level designed to encourage carriers to offer service*  
6           *responsive to shipper needs.*

7           “(3) *Nothing in this section shall be construed to limit*  
8           *the Secretary’s authority to require reports from motor car-*  
9           *riers providing transportation of household goods or to re-*  
10          *quire such carriers to provide specified information to con-*  
11          *sumers concerning their past performance.*

12          “(b)(1) *Every motor carrier providing transportation*  
13          *of household goods subject to jurisdiction under subchapter*  
14          *I of chapter 135 of this title may, upon request of a prospec-*  
15          *tive shipper, provide the shipper with an estimate of charges*  
16          *for transportation of household goods and for the proposed*  
17          *services. The Secretary shall not prohibit any such carrier*  
18          *from charging a prospective shipper for providing a writ-*  
19          *ten, binding estimate for the transportation and proposed*  
20          *services.*

21          “(2) *Any charge for an estimate of charges provided*  
22          *by a motor carrier to a shipper for transportation of house-*  
23          *hold goods subject to jurisdiction under subchapter I of*  
24          *chapter 135 of this title shall be subject to the antitrust*

1 *laws, as defined in the first section of the Clayton Act (15*  
 2 *U.S.C. 12).*

3       “(c) *The Secretary shall issue regulations that provide*  
 4 *motor carriers providing transportation of household goods*  
 5 *subject to jurisdiction under subchapter I of chapter 135*  
 6 *of this title with the maximum possible flexibility in weigh-*  
 7 *ing shipments, consistent with assurance to the shipper of*  
 8 *accurate weighing practices. The Secretary shall not pro-*  
 9 *hibit such carriers from backweighing shipments or from*  
 10 *basing their charges on the reweigh weights if the shipper*  
 11 *observes both the tare and gross weighings (or, prior to such*  
 12 *weighings, waives in writing the opportunity to observe*  
 13 *such weighings) and such weighings are performed on the*  
 14 *same scale.*

15           “SUBCHAPTER II—REPORTS AND RECORDS

16   **“§ 14121. Definitions**

17       *“In this subchapter—*

18           “(1) *‘carrier’ and ‘broker’ include a receiver or*  
 19 *trustee of a carrier and broker, respectively.*

20           “(2) *‘association’ means an organization main-*  
 21 *tained by or in the interest of a group of carriers or*  
 22 *brokers providing transportation or service subject to*  
 23 *jurisdiction under chapter 135 of this title that per-*  
 24 *forms a service, or engages in activities, related to*  
 25 *transportation under this part.*

1   **“§ 14122. Records: form; inspection; preservation**

2       “(a) *The Secretary of Transportation or the Inter-*  
 3 *modal Surface Transportation Board, as applicable, may*  
 4 *prescribe the form of records required to be prepared or com-*  
 5  *piled under this subchapter by carriers and brokers, includ-*  
 6 *ing records related to movement of traffic and receipts and*  
 7 *expenditures of money.*

8       “(b) *The Secretary or Transportation Board, or an*  
 9 *employee designated by the Secretary or Transportation*  
 10 *Board, may on demand and display of proper credentials—*

11           “(1) *inspect and examine the lands, buildings,*  
 12 *and equipment of a carrier or broker; and*

13           “(2) *inspect and copy any record of—*

14               “(A) *a carrier, broker, or association; and*

15               “(B) *a person controlling, controlled by, or*  
 16 *under common control with a carrier if the Sec-*  
 17 *retary or Transportation Board, as applicable,*  
 18 *considers inspection relevant to that person’s re-*  
 19 *lation to, or transaction with, that carrier.*

20       “(c) *The Secretary or Transportation Board, as appli-*  
 21 *cable, may prescribe the time period during which operat-*  
 22 *ing, accounting, and financial records must be preserved*  
 23 *by carriers.*

24   **“§ 14123. Reports by carriers, brokers, and associa-**  
 25       **tions**

26       “(a) *The Secretary—*

1           “(1) shall require class I and class II motor car-  
2           riers (as defined by the Secretary) to file annual re-  
3           ports with the Secretary, including a detailed balance  
4           sheet and income statement, information related to  
5           the ownership or lease of equipment operated by the  
6           motor carrier, and data related to the movement of  
7           traffic and safety performance, the form and sub-  
8           stance of which shall be prescribed by the Secretary  
9           and may vary for different classes of motor carriers;

10           “(2) may require carriers, freight forwarders,  
11           brokers, lessors, and associations, or classes of them as  
12           the Secretary may prescribe, to file quarterly, peri-  
13           odic, or special reports with the Secretary and to re-  
14           spond to surveys concerning their operations; and

15           “(3) shall have the authority upon good cause  
16           shown to exempt any party from the financial report-  
17           ing requirements prescribed by subsection (a)(1) or  
18           (a)(2).

19           “(b) Any request for exemption under paragraph (3)  
20           of subsection (a) must demonstrate, at a minimum, that  
21           an exemption is required to avoid competitive harm and  
22           preserve confidential business information that is not other-  
23           wise publicly available. Exemptions shall only be granted  
24           for one-year periods.”.



1       “(c) *The Intermodal Surface Transportation Board*  
 2   *may require carriers to file special reports containing infor-*  
 3   *mation needed by the Transportation Board.*

4                               **“CHAPTER 143—FINANCE**

5   **“§ 14301. Security interests in certain motor vehicles**

6       “(a) *In this section—*

7               “(1) ‘motor vehicle’ means a truck of rated ca-  
 8       *capacity (gross vehicle weight) of at least 10,000*  
 9       *pounds, a highway tractor of rated capacity (gross*  
 10       *combination weight) of at least 10,000 pounds, a*  
 11       *property-carrying trailer or semitrailer with at least*  
 12       *one load-carrying axle of at least 10,000 pounds, or*  
 13       *a motor bus with a seating capacity of at least 10 in-*  
 14       *dividuals.*

15              “(2) ‘lien creditor’ means a creditor having a  
 16       *lien on a motor vehicle and includes an assignee for*  
 17       *benefit of creditors from the date of assignment, a*  
 18       *trustee in a case under title 11 from the date of filing*  
 19       *of the petition in that case, and a receiver in equity*  
 20       *from the date of appointment of the receiver.*

21              “(3) ‘security interest’ means an interest (includ-  
 22       *ing an interest established by a conditional sales con-*  
 23       *tract, mortgage, equipment trust, or other lien or title*  
 24       *retention contract, or lease) in a motor vehicle when*

1       *the interest secures payment or performance of an ob-*  
2       *ligation.*

3               “(4) ‘perfection’, as related to a security interest,  
4       *means taking action (including public filing, record-*  
5       *ing, notation on a certificate of title, and possession*  
6       *of collateral by the secured party), or the existence of*  
7       *facts, required under law to make a security interest*  
8       *enforceable against general creditors and subsequent*  
9       *lien creditors of a debtor, but does not include compli-*  
10       *ance with requirements related only to the establish-*  
11       *ment of a valid security interest between the debtor*  
12       *and the secured party.*

13              “(b) *A security interest in a motor vehicle owned by,*  
14       *or in the possession and use of, a carrier registered under*  
15       *section 13902 of this title and owing payment or perform-*  
16       *ance of an obligation secured by that security interest is*  
17       *perfected in all jurisdictions against all general, and subse-*  
18       *quent lien, creditors of, and all persons taking a motor vehi-*  
19       *cle by sale (or taking or retaining a security interest in*  
20       *a motor vehicle) from, that carrier when—*

21              “(1) *a certificate of title is issued for a motor ve-*  
22       *hicle under a law of a jurisdiction that requires or*  
23       *permits indication, on a certificate or title, of a secu-*  
24       *rity interest in the motor vehicle if the security inter-*  
25       *est is indicated on the certificate;*

1           “(2) a certificate of title has not been issued and  
 2           the law of the State where the principal place of busi-  
 3           ness of that carrier is located requires or permits pub-  
 4           lic filing or recording of, or in relation to, that secu-  
 5           rity interest if there has been such a public filing or  
 6           recording; and

7           “(3) a certificate of title has not been issued and  
 8           the security interest cannot be perfected under para-  
 9           graph (2) of this subsection, if the security interest  
 10          has been perfected under the law (including the con-  
 11          flict of laws rules) of the State where the principal  
 12          place of business of that carrier is located.

13   **“§14302. Pooling and division of transportation or**  
 14           **earnings**

15          “(a) A carrier providing transportation subject to ju-  
 16          risdiction under subchapter I of chapter 135 of this title  
 17          may not agree or combine with another such carrier to pool  
 18          or divide traffic or services or any part of their earnings  
 19          without the approval of the Intermodal Surface Transpor-  
 20          tation Board under this section.

21          “(b) The Transportation Board may approve and au-  
 22          thorize an agreement or combination between or among  
 23          motor carriers of passengers, or between a motor carrier of  
 24          passengers and a rail carrier of passengers, if the carriers  
 25          involved assent to the pooling or division and the Transpor-

1    *tation Board finds that a pooling or division of traffic, serv-*  
2    *ices, or earnings—*

3            *“(1) will be in the interest of better service to the*  
4            *public or of economy of operation; and*

5            *“(2) will not unreasonably restrain competition.*

6            *“(c)(1) Any motor carrier of property may apply to*  
7    *the Transportation Board for approval of an agreement or*  
8    *combination with another such carrier to pool or divide*  
9    *traffic or any services or any part of their earnings by fil-*  
10   *ing such agreement or combination with the Transportation*  
11   *Board not less than 50 days before its effective date. Prior*  
12   *to the effective date of the agreement or combination, the*  
13   *Transportation Board shall determine whether the agree-*  
14   *ment or combination is of major transportation importance*  
15   *and whether there is substantial likelihood that the agree-*  
16   *ment or combination will unduly restrain competition. If*  
17   *the Transportation Board determines that neither of these*  
18   *two factors exists, it shall, prior to such effective date and*  
19   *without a hearing, approve and authorize the agreement or*  
20   *combination, under such rules and regulations as the*  
21   *Transportation Board may issue, and for such consider-*  
22   *ation between such carriers and upon such terms and condi-*  
23   *tions as shall be found by the Transportation Board to be*  
24   *just and reasonable. If the Transportation Board deter-*  
25   *mines either that the agreement or combination is of major*

1 *transportation importance or that there is substantial like-*  
2 *lihood that the agreement or combination will unduly re-*  
3 *strain competition, the Transportation Board shall hold a*  
4 *hearing concerning whether the agreement or combination*  
5 *will be in the interest of better service to the public or of*  
6 *economy in operation and whether it will unduly restrain*  
7 *competition and shall suspend operation of such agreement*  
8 *or combination pending such hearing and final decision*  
9 *thereon. After such hearing, the Transportation Board shall*  
10 *indicate to what extent it finds that the agreement or com-*  
11 *bination will be in the interest of better service to the public*  
12 *or of economy in operation and will not unduly restrain*  
13 *competition and if assented to by all the carriers involved,*  
14 *shall to that extent, approve and authorize the agreement*  
15 *or combination, under such rules and regulations as the*  
16 *Transportation Board may issue, and for such consider-*  
17 *ation between such carriers and upon such terms and condi-*  
18 *tions as shall be found by the Transportation Board to be*  
19 *just and reasonable.*

20       “(2) *In the case of an application for Transportation*  
21 *Board approval of an agreement or combination between*  
22 *a motor carrier providing transportation of household goods*  
23 *and its agents to pool or divide traffic or services or any*  
24 *part of their earnings, such agreement or combination shall*  
25 *be presumed to be in the interest of better service to the*

1 *public and of economy in operation and not to restrain*  
2 *competition unduly if the practices proposed to be carried*  
3 *out under such agreement or combination are the same as*  
4 *or similar to practices carried out under agreements and*  
5 *combinations between motor carriers providing transpor-*  
6 *tation of household goods to pool or divide traffic or service*  
7 *of any part of their earnings approved by the Interstate*  
8 *Commerce Commission before the date of enactment of the*  
9 *Interstate Commerce Commission Sunset Act of 1995.*

10       “(3) *The Transportation Board shall streamline, sim-*  
11 *plify, and expedite, to the maximum extent practicable, the*  
12 *process (including, but not limited to, any paperwork) for*  
13 *submission and approval of applications under this section*  
14 *for agreements and combinations between motor carriers*  
15 *providing transportation of household goods and their*  
16 *agents.*

17       “(d) *The Transportation Board may impose condi-*  
18 *tions governing the pooling or division and may approve*  
19 *and authorize payment of a reasonable consideration be-*  
20 *tween the carriers.*

21       “(e) *The Transportation Board may begin a proceed-*  
22 *ing under this section on its own initiative or on applica-*  
23 *tion.*

24       “(f) *A carrier may participate in an arrangement ap-*  
25 *proved by or exempted by the Transportation Board under*

1 *this section without the approval of any other federal, State,*  
 2 *or municipal body. A carrier participating in an approved*  
 3 *or exempted arrangement is exempt from the antitrust laws*  
 4 *and from all other law, including State and municipal law,*  
 5 *as necessary to let that person carry out the arrangement.*

6       “(g) *Any agreements in operation under the provisions*  
 7 *of this title on the date of enactment of the Interstate Com-*  
 8 *merce Commission Sunset Act of 1995 that are succeeded*  
 9 *by this section shall remain in effect until further order of*  
 10 *the Transportation Board.*

11       **“§ 14303. Consolidation, merger, and acquisition of**  
 12               **control of motor carriers of passengers**

13       “(a) *APPROVAL REQUIRED.—The following trans-*  
 14 *actions involving motor carriers of passengers subject to ju-*  
 15 *risdiction under subchapter I of chapter 135 of this title*  
 16 *may be carried out only with the approval of the Inter-*  
 17 *modal Surface Transportation Board:*

18               “(1) *Consolidation or merger of the properties or*  
 19 *franchises of at least 2 carriers into one operation for*  
 20 *the ownership, management, and operation of the pre-*  
 21 *viously separately owned properties.*

22               “(2) *A purchase, lease, or contract to operate*  
 23 *property of another carrier by any number of car-*  
 24 *riers.*

1           “(3) *Acquisition of control of a carrier by any*  
2           *number of carriers.*

3           “(4) *Acquisition of control of at least 2 carriers*  
4           *by a person that is not a carrier.*

5           “(5) *Acquisition of control of a carrier by a per-*  
6           *son that is not a carrier but that controls any number*  
7           *of carriers.*

8           “(b) *The Board shall approve and authorize a trans-*  
9           *action under this section when it finds the transaction is*  
10          *consistent with the public interest. The Board shall consider*  
11          *at least the following:*

12           “(1) *The effect of the proposed transaction on the*  
13           *adequacy of transportation to the public.*

14           “(2) *The total fixed charges that result from the*  
15           *proposed transaction.*

16           “(3) *The interest of carrier employees affected by*  
17           *the proposed transaction.*

18          *The Board may impose conditions governing the trans-*  
19          *action.*

20           “(c) *Within 30 days after an application is filed under*  
21          *this section, the Board shall either publish a notice of the*  
22          *application in the Federal Register or (2) reject the applica-*  
23          *tion if it is incomplete.*



1       “(d) Written comments about an application may be  
2 filed with the Board within 45 days after notice of the ap-  
3 plication is published under subsection (c).

4       “(e) The Board shall conclude evidentiary proceedings  
5 by the 240th day after notice of the application is published  
6 under subsection (c). The Board shall issue a final decision  
7 by the 180th day after the conclusion of the evidentiary pro-  
8 ceedings. The Board may extend a time period under this  
9 subsection, except that the total of all such extensions with  
10 respect to any application shall not exceed 90 days.

11       “(f) A carrier or corporation participating in or re-  
12 sulting from a transaction approved by the Board under  
13 this section, or exempted by the Board from the application  
14 of this section pursuant to section 13541, may carry out  
15 the transaction, own and operate property, and exercise  
16 control or franchises acquired through the transaction with-  
17 out the approval of a State authority. A carrier, corpora-  
18 tion, or person participating in that approved or exempted  
19 transaction is exempt from the antitrust laws and from all  
20 other law, including State and municipal law, as necessary  
21 to let that person carry out the transaction, hold, maintain,  
22 and operate property, and exercise control or franchises ac-  
23 quired through the transaction.

24       “(g) This section shall not apply to transactions in-  
25 volving carriers whose aggregate gross operating revenues

1 *were not more than \$2,000,000 during a period of 12 con-*  
 2 *secutive months ending not more than 6 months before the*  
 3 *date of the agreement of the parties.*

4       **“CHAPTER 145—FEDERAL-STATE RELATIONS**

5       **“§ 14501. Federal authority over intrastate transpor-**  
 6                       **tation**

7           “(a) *MOTOR CARRIERS OF PASSENGERS.—No State or*  
 8 *political subdivision thereof and no interstate agency or*  
 9 *other political agency of two or more States shall enact or*  
 10 *enforce any law, rule, regulation, standard, or other provi-*  
 11 *sions having the force and effect of law relating to schedul-*  
 12 *ing of interstate or intrastate transportation (including dis-*  
 13 *continuance or reduction in the level of service) provided*  
 14 *by motor carrier of passengers subject to jurisdiction under*  
 15 *subchapter I of chapter 135 of this title on an interstate*  
 16 *route or relating to the implementation of any change in*  
 17 *the rates for such transportation or for charter transpor-*  
 18 *tation except to the extent that notice, not in excess of 30*  
 19 *days, of changes in schedules may be required. This sub-*  
 20 *section shall not apply to intrastate commuter bus oper-*  
 21 *ations.*

22           “(b) *FREIGHT FORWARDERS AND TRANSPORTATION*  
 23 *BROKERS.—*

24           “(1) *GENERAL RULE.—Subject to paragraph (2)*  
 25 *of this subsection, no State or political subdivision*

1     *thereof and no intrastate agency or other political*  
 2     *agency of two or more States shall enact or enforce*  
 3     *any law, rule, regulation, standard, or other provi-*  
 4     *sion having the force and effect of law relating to*  
 5     *intrastate rates, intrastate routes, or intrastate serv-*  
 6     *ices of any freight forwarder or transportation broker.*

7             “(2) *CONTINUATION OF HAWAII’S AUTHORITY.—*  
 8     *Nothing in this subsection and the amendments made*  
 9     *by the Surface Freight Forwarder Deregulation Act of*  
 10    *1986 shall be construed to affect the authority of the*  
 11    *State of Hawaii to continue to regulate a motor car-*  
 12    *rier operating within the State of Hawaii.*

13            “(c) *MOTOR CARRIERS OF PROPERTY.—*

14            “(1) *GENERAL RULE.—Except as provided in*  
 15    *paragraphs (2) and (3), a State, political subdivision*  
 16    *of a State, or political authority of 2 or more States*  
 17    *may not enact or enforce a law, regulation, or other*  
 18    *provision having the force and effect of law related to*  
 19    *a price, route, or service of any motor carrier (other*  
 20    *than a carrier affiliated with a direct air carrier cov-*  
 21    *ered by section 41713(b)(4) of this title) or any motor*  
 22    *private carrier or any transportation intermediary*  
 23    *(as defined in sections 13102(1) and 13102(7) of this*  
 24    *subtitle) with respect to the transportation of prop-*  
 25    *erty.*

1           “(2) *MATTERS NOT COVERED.—Paragraph (1)—*

2                   “(A) *shall not restrict the safety regulatory*  
 3           *authority of a State with respect to motor vehi-*  
 4           *cles, the authority of a State to impose highway*  
 5           *route controls or limitations based on the size or*  
 6           *weight of the motor vehicle or the hazardous na-*  
 7           *ture of the cargo, or the authority of a State to*  
 8           *regulate motor carriers with regard to minimum*  
 9           *amounts of financial responsibility relating to*  
 10           *insurance requirements and self-insurance au-*  
 11           *thorization;*

12                   “(B) *does not apply to the transportation of*  
 13           *household goods; and*

14                   “(C) *does not apply to the authority of a*  
 15           *State or a political subdivision of a State to*  
 16           *enact or enforce a law, regulation, or other pro-*  
 17           *vision relating to the price and related condi-*  
 18           *tions of for-hire motor vehicle transportation by*  
 19           *a tow truck, if such transportation is per-*  
 20           *formed—*

21                   “(i) *at the request of a law enforcement*  
 22           *agency; or*

23                   “(ii) *without the prior consent or au-*  
 24           *thorization of the owner or operator of the*  
 25           *motor vehicle.*

1           “(3) *STATE STANDARD TRANSPORTATION PRAC-*  
 2           *TICES.*—

3           “(A) *CONTINUATION.*—*Paragraph (1) shall*  
 4           *not affect any authority of a State, political sub-*  
 5           *division of a State, or political authority of 2 or*  
 6           *more States to enact or enforce a law, regulation,*  
 7           *or other provision, with respect to the intrastate*  
 8           *transportation of property by motor carriers, re-*  
 9           *lated to—*

10           “(i) *uniform cargo liability rules,*  
 11           “(ii) *uniform bills of lading or receipts*  
 12           *for property being transported,*  
 13           “(iii) *uniform cargo credit rules, or*  
 14           “(iv) *antitrust immunity for joint line*  
 15           *rates or routes, classifications, and mileage*  
 16           *guides,*  
 17           *if such law, regulation, or provision meets the re-*  
 18           *quirements of subparagraph (B).*

19           “(B) *REQUIREMENTS.*—*A law, regulation,*  
 20           *or provision of a State, political subdivision, or*  
 21           *political authority meets the requirements of this*  
 22           *subparagraph if—*

23           “(i) *the law, regulation, or provision*  
 24           *covers the same subject matter as, and com-*  
 25           *pliance with such law, regulation, or provi-*

*sion is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary of Transportation or the Intermodal Surface Transportation Board under this part; and*

*“(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.*

“(C) *ELECTION.*—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

*“(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.*

***“§14502. Tax discrimination against motor carrier  
transportation property***

“(a) *In this section—*

“(1) ‘assessment’ means valuation for a property tax levied by a taxing district;

“(2) ‘assessment jurisdiction’ means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

1           “(3) ‘motor carrier transportation property’  
2       *means property, as defined by the Secretary of Trans-*  
3       *portation, owned or used by a motor carrier provid-*  
4       *ing transportation in interstate commerce whether or*  
5       *not such transportation is subject to jurisdiction*  
6       *under subchapter I of chapter 135 of this title; and*

7           “(4) ‘commercial and industrial property’ means  
8       *property, other than transportation property and*  
9       *land used primarily for agricultural purposes or tim-*  
10       *ber growing, devoted to a commercial or industrial*  
11       *use and subject to a property tax levy.*

12       “(b) *The following acts unreasonably burden and dis-*  
13       *criminate against interstate commerce and a State, sub-*  
14       *division of a State, or authority acting for a State or sub-*  
15       *division of a State may not do any of them:*

16           “(1) *Assess motor carrier transportation prop-*  
17       *erty at a value that has a higher ratio to the true*  
18       *market value of the motor carrier transportation*  
19       *property than the ratio that the assessed value of*  
20       *other commercial and industrial property in the same*  
21       *assessment jurisdiction has to the true market value*  
22       *of the other commercial and industrial property.*

23           “(2) *Levy or collect a tax on an assessment that*  
24       *may not be made under paragraph (1) of this sub-*  
25       *section.*

1           “(3) *Levy or collect an ad valorem property tax*  
2           *on motor carrier transportation property at a tax*  
3           *rate that exceeds the tax rate applicable to commer-*  
4           *cial and industrial property in the same assessment*  
5           *jurisdiction.*

6           “(c) *Notwithstanding section 1341 of title 28 and with-*  
7           *out regard to the amount in controversy or citizenship of*  
8           *the parties, a district court of the United States has juris-*  
9           *isdiction, concurrent with other jurisdiction of courts of the*  
10          *United States and the States, to prevent a violation of sub-*  
11          *section (b) of this section. Relief may be granted under this*  
12          *subsection only if the ratio of assessed value to true market*  
13          *value of motor carrier transportation property exceeds by*  
14          *at least 5 percent, the ratio of assessed value to true market*  
15          *value of other commercial and industrial property in the*  
16          *same assessment jurisdiction. The burden of proof in deter-*  
17          *mining assessed value and true market value is governed*  
18          *by State law. If the ratio of the assessed value of other com-*  
19          *mercial and industrial property in the assessment jurisdic-*  
20          *tion to the true market value of all other commercial and*  
21          *industrial property cannot be determined to the satisfaction*  
22          *of the district court through the random-sampling method*  
23          *known as a sales assessment ratio study (to be carried out*  
24          *under statistical principles applicable to such a study), the*  
25          *court shall find, as a violation of this section—*



1           “(1) an assessment of the motor carrier transpor-  
 2           tation property at a value that has a higher ratio to  
 3           the true market value of the motor carrier transpor-  
 4           tation property than the assessment value of all other  
 5           property subject to a property tax levy in the assess-  
 6           ment jurisdiction has to the true market value of all  
 7           such other property; and

8           “(2) the collection of ad valorem property tax on  
 9           the motor carrier transportation property at a tax  
 10          rate that exceeds the tax ratio rate applicable to tax-  
 11          able property in the taxing district.

12   **“§ 14503. Withholding State and local income tax by**  
 13           **certain carriers**

14          “(a)(1) No part of the compensation paid by a motor  
 15          carrier providing transportation subject to jurisdiction  
 16          under subchapter I of chapter 135 of this title or by a motor  
 17          private carrier to an employee who performs regularly as-  
 18          signed duties in 2 or more States as such an employee with  
 19          respect to a motor vehicle shall be subject to the income tax  
 20          laws of any State or subdivision of that State, other than  
 21          the State or subdivision thereof of the employee’s residence.

22          “(2) In this subsection ‘employee’ has the meaning  
 23          given such term in section 31132 of this title.

24          “(b)(1) In this subsection, an employee is deemed to  
 25          have earned more than 50 percent of pay in a State or

1 *subdivision of that State in which the time worked by the*  
2 *employee in the State or subdivision is more than 50 per-*  
3 *cent of the total time worked by the employee while em-*  
4 *ployed during the calendar year.*

5       “(2) *A water carrier providing transportation subject*  
6 *to the jurisdiction of the Secretary of Transportation under*  
7 *subchapter II of chapter 135 of this title shall file income*  
8 *tax information returns and other reports only with—*

9               “(A) *the State and subdivision of residence of the*  
10 *employee (as shown on the employment records of the*  
11 *carrier); and*

12               “(B) *the State and subdivision in which the em-*  
13 *ployee earned more than 50 percent of the pay re-*  
14 *ceived by the employee from the carrier during the*  
15 *preceding calendar year.*

16       “(3) *This subsection applies to pay of a master, officer,*  
17 *or sailor who is a member of the crew on a vessel engaged*  
18 *in foreign, coastwise, intercoastal or noncontiguous trade*  
19 *or in the fisheries of the United States.*

20       “(c) *A motor and motor private carrier withholding*  
21 *pay from an employee under subsection (a) of this section*  
22 *shall file income tax information returns and other reports*  
23 *only with the State and subdivision of residence of the em-*  
24 *ployee.*

1   **“§ 14504. State tax**

2           *“A State or political subdivision thereof may not col-*  
 3 *lect or levy a tax, fee, head charge, or other charge on—*

4           *“(1) a passenger traveling in interstate com-*  
 5 *merce by motor carrier;*

6           *“(2) the transportation of a passenger traveling*  
 7 *in interstate commerce by motor carrier;*

8           *“(3) the sale of passenger transportation in*  
 9 *interstate commerce by motor carrier; or*

10           *“(4) the gross receipts derived from such trans-*  
 11 *portation.*

12   **“§ 14505. Single State registration system**

13           *“(a) DEFINITIONS.—In this section, the terms ‘stand-*  
 14 *ards’ and ‘amendments to standards’ mean the specification*  
 15 *of forms and procedures required by regulations of the Sec-*  
 16 *retary to prove the lawfulness of transportation by motor*  
 17 *carrier referred to in section 13501.*

18           *“(b) GENERAL RULE.—The requirement of a State*  
 19 *that a motor carrier, providing transportation subject to*  
 20 *jurisdiction under subchapter I of chapter 135 and provid-*  
 21 *ing transportation in that State, must register with the*  
 22 *State is not an unreasonable burden on transportation re-*  
 23 *ferred to in section 13501 when the State registration is*  
 24 *completed under standards of the Secretary under sub-*  
 25 *section (c). When a State registration requirement imposes*

1 *obligations in excess of the standards of the Secretary, the*  
 2 *part in excess is an unreasonable burden.*

3 “(c) *SINGLE STATE REGISTRATION SYSTEM.*—

4 “(1) *IN GENERAL.*—*The Secretary shall main-*  
 5 *tain standards for implementing a system under*  
 6 *which—*

7 “(A) *a motor carrier is required to register*  
 8 *annually with only one State by providing evi-*  
 9 *dence of its Federal registration under chapter*  
 10 *139;*

11 “(B) *the State of registration shall fully*  
 12 *comply with standards prescribed under this sec-*  
 13 *tion; and*

14 “(C) *such single State registration shall be*  
 15 *deemed to satisfy the registration requirements of*  
 16 *all other States.*

17 “(2) *SPECIFIC REQUIREMENTS.*—

18 “(A) *EVIDENCE OF CERTIFICATE; PROOF OF*  
 19 *INSURANCE; PAYMENT OF FEES.*—*Under the*  
 20 *standards of the Secretary implementing the sin-*  
 21 *gle State registration system described in para-*  
 22 *graph (1) of this subsection, only a State acting*  
 23 *in its capacity as registration State under such*  
 24 *single State system may require a motor carrier*

1       *holding a certificate or permit issued under this*  
2       *part—*

3               “(i) to file and maintain evidence of  
4               such certificate or permit;

5               “(ii) to file satisfactory proof of re-  
6               quired insurance or qualification as a self-  
7               insurer;

8               “(iii) to pay directly to such State fee  
9               amounts in accordance with the fee system  
10              established under subparagraph (B)(iv) of  
11              this paragraph, subject to allocation of fee  
12              revenues among all States in which the car-  
13              rier operates and which participate in the  
14              single State registration system; and

15              “(iv) to file the name of a local agent  
16              for service of process.

17              “(B) RECEIPTS; FEE SYSTEM.—The stand-  
18              ards of the Secretary—

19              “(i) shall require that the registration  
20              State issue a receipt, in a form, reflecting  
21              that the carrier has filed proof of insurance  
22              as provided under subparagraph (A)(ii) of  
23              this subsection and has paid fee amounts in  
24              accordance with the fee system established  
25              under clause (iv) of this subparagraph;

1           “(ii) shall require that copies of the re-  
2           ceipt issued under clause (i) of this para-  
3           graph be kept in each of the carrier’s com-  
4           mercial motor vehicles;

5           “(iii) shall not require decals, stamps,  
6           cab cards, or any other means of registering  
7           or identifying specific vehicles operated by  
8           the carrier;

9           “(iv) shall establish a fee system for the  
10          filing of proof of insurance as provided  
11          under subparagraph (A)(ii) of this sub-  
12          section that—

13          “(i) is based on the number of commer-  
14          cial motor vehicles the carrier operates in a  
15          State and on the number of States in which  
16          the carrier operates,

17          “(ii) minimizes the costs of complying  
18          with the registration system, and

19          “(iii) results in a fee for each partici-  
20          pating State that is equal to the fee, not to  
21          exceed \$10 per vehicle, that such State col-  
22          lected or charged as of November 15, 1991;  
23          and

24          “(v) shall not authorize the charging or  
25          collection of any fee for filing and main-

1            *taining a certificate or permit under sub-*  
 2            *paragraph (A)(i) of this paragraph.*

3            *“(C) PROHIBITED FEES.—The charging or*  
 4            *collection of any fee under this section that is not*  
 5            *in accordance with the fee system established*  
 6            *under subparagraph (B)(iv) of this paragraph*  
 7            *shall be deemed to be a burden on interstate com-*  
 8            *merce.*

9            *“(D) LIMITATION ON PARTICIPATION BY*  
 10           *STATES.—Only a State which, as of January 1,*  
 11           *1991, charged or collected a fee for a vehicle*  
 12           *identification stamp or number under part 1023*  
 13           *of title 49, Code of Federal Regulations, shall be*  
 14           *eligible to participate as a registration State*  
 15           *under this subsection or to receive any fee reve-*  
 16           *nue under this subsection.*

17            **“CHAPTER 147—ENFORCEMENT;**  
 18            **INVESTIGATIONS; RIGHTS; REMEDIES**

19            **“§ 14701. General authority**

20            *“(a) The Secretary of Transportation or the Inter-*  
 21            *modal Surface Transportation Board, as applicable, may*  
 22            *begin an investigation under this part on the Secretary’s*  
 23            *or the Transportation Board’s own initiative or on com-*  
 24            *plaint. If the Secretary or Transportation Board, as appli-*  
 25            *cable finds that a carrier or broker is violating this part,*

1 *the Secretary or Transportation Board, as applicable, shall*  
2 *take appropriate action to compel compliance with this*  
3 *part. If the Secretary finds that a foreign motor carrier*  
4 *or foreign motor private carrier is violating chapter 139*  
5 *of this title, the Secretary shall take appropriate action to*  
6 *compel compliance with that chapter. The Secretary or*  
7 *Transportation Board, as applicable, may take action*  
8 *under this subsection only after giving the carrier or broker*  
9 *notice of the investigation and an opportunity for a pro-*  
10 *ceeding.*

11       “(b) *A person, including a governmental authority,*  
12 *may file with the Secretary or Transportation Board, as*  
13 *applicable, a complaint about a violation of this part by*  
14 *a carrier providing, or broker for, transportation or service*  
15 *subject to jurisdiction under this part or a foreign motor*  
16 *carrier or foreign motor private carrier providing transpor-*  
17 *tation registered under section 13902 of this title. The com-*  
18 *plaint must state the facts that are the subject of the viola-*  
19 *tion. The Secretary or Transportation Board, as applicable,*  
20 *may dismiss a complaint that it determines does not state*  
21 *reasonable grounds for investigation and action.*

22       “(c) *A formal investigative proceeding begun by the*  
23 *Secretary or Transportation Board under subsection (a) of*  
24 *this section is dismissed automatically unless it is con-*



1 *cluded with administrative finality by the end of the third*  
2 *year after the date on which it was begun.*

3 ***“§ 14702. Enforcement by the regulatory authority***

4 *“(a) The Secretary of Transportation or the Inter-*  
5 *modal Surface Transportation Board, as applicable, may*  
6 *bring a civil action—*

7 *“(1) to enforce section 14103 of this title; or*

8 *“(2) to enforce this part, or a regulation or order*  
9 *of the Secretary or Transportation Board, as applica-*  
10 *ble, when violated by a carrier or broker providing*  
11 *transportation or service subject to jurisdiction under*  
12 *subchapter I or III of chapter 135 of this title or by*  
13 *a foreign motor carrier or foreign motor private car-*  
14 *rier providing transportation registered under section*  
15 *13902 of this title.*

16 *“(b) In a civil action under subsection (a)(2) of this*  
17 *section—*

18 *“(1) trial is in the judicial district in which the*  
19 *carrier, foreign motor carrier, foreign motor private*  
20 *carrier, or broker operates;*

21 *“(2) process may be served without regard to the*  
22 *territorial limits of the district or of the State in*  
23 *which the action is instituted; and*

1           “(3) a person participating with a carrier or  
2           broker in a violation may be joined in the civil action  
3           without regard to the residence of the person.

4           “(c) The Transportation Board, through its own attor-  
5           neys, may bring or participate in any civil action involv-  
6           ing motor carrier undercharges.

7           **“§ 14703. Enforcement by the Attorney General**

8           “The Attorney General may, and on request of either  
9           the Secretary of Transportation or Intermodal Surface  
10          Transportation Board shall, bring court proceedings (1) to  
11          enforce this part or a regulation or order of the Secretary  
12          or Transportation Board or terms of registration under this  
13          part and (2) to prosecute a person violating this part or  
14          a regulation or order of the Secretary or Transportation  
15          Board or term of registration under this part.

16          **“§ 14704. Rights and remedies of persons injured by**  
17                               **carriers or brokers**

18          “(a) A person injured because a carrier or broker pro-  
19          viding transportation or service subject to jurisdiction  
20          under chapter 135 of this title does not obey an order of  
21          the Secretary of Transportation or the Intermodal Surface  
22          Transportation Board, as applicable, under this part, ex-  
23          cept an order for the payment of money, may bring a civil  
24          action to enforce that order under this subsection.

1       “(b)(1) *A carrier providing transportation or service*  
2 *subject to jurisdiction under chapter 135 of this title is lia-*  
3 *ble to a person for amounts charged that exceed the applica-*  
4 *ble rate for transportation or service contained in a tariff*  
5 *filed under section 13702 of this title.*

6       “(2) *A carrier or broker providing transportation or*  
7 *service subject to jurisdiction under chapter 135 of this title*  
8 *is liable for damages sustained by a person as a result of*  
9 *an act or omission of that carrier or broker in violation*  
10 *of this part.*

11       “(c)(1) *A person may file a complaint with the Trans-*  
12 *portation Board or the Secretary, as applicable, under sec-*  
13 *tion 14701(b) of this title or bring a civil action under sub-*  
14 *section (b) (1) or (2) of this section to enforce liability*  
15 *against a carrier or broker providing transportation or*  
16 *service subject to jurisdiction under chapter 135 of this title.*

17       “(2) *When the Transportation Board or Secretary, as*  
18 *applicable, makes an award under subsection (b) of this sec-*  
19 *tion, the Transportation Board or Secretary, as applicable,*  
20 *shall order the carrier to pay the amount awarded by a*  
21 *specific date. The Transportation Board or Secretary, as*  
22 *applicable, may order a carrier or broker providing trans-*  
23 *portation or service subject to jurisdiction under chapter*  
24 *135 of this title to pay damages only when the proceeding*  
25 *is on complaint. The person for whose benefit an order of*

1 *the Transportation Board or Secretary requiring the pay-*  
2 *ment of money is made may bring a civil action to enforce*  
3 *that order under this paragraph if the carrier or broker*  
4 *does not pay the amount awarded by the date payment was*  
5 *ordered to be made.*

6       “(d)(1) *When a person begins a civil action under sub-*  
7 *section (b) of this section to enforce an order of the Trans-*  
8 *portation Board or Secretary requiring the payment of*  
9 *damages by a carrier or broker providing transportation*  
10 *or service subject to jurisdiction under chapter 135 of this*  
11 *title, the text of the order of the Transportation Board or*  
12 *Secretary must be included in the complaint. In addition*  
13 *to the district courts of the United States, a State court*  
14 *of general jurisdiction having jurisdiction of the parties has*  
15 *jurisdiction to enforce an order under this paragraph. The*  
16 *findings and order of the Transportation Board or Sec-*  
17 *retary are competent evidence of the facts stated in them.*  
18 *Trial in a civil action brought in a district court of the*  
19 *United States under this paragraph is in the judicial dis-*  
20 *trict in which the plaintiff resides or in which the principal*  
21 *operating office of the carrier or broker is located. In a civil*  
22 *action under this paragraph, the plaintiff is liable for only*  
23 *those costs that accrue on an appeal taken by the plaintiff.*

24       “(2) *All parties in whose favor the award was made*  
25 *may be joined as plaintiffs in a civil action brought in a*

1 *district court of the United States under this subsection and*  
2 *all the carriers that are parties to the order awarding dam-*  
3 *ages may be joined as defendants. Trial in the action is*  
4 *in the judicial district in which any one of the plaintiffs*  
5 *could bring the action against any one of the defendants.*  
6 *Process may be served on a defendant at its principal oper-*  
7 *ating office when that defendant is not in the district in*  
8 *which the action is brought. A judgment ordering recovery*  
9 *may be made in favor of any of those plaintiffs against*  
10 *the defendant found to be liable to that plaintiff.*

11       “(3) *The district court shall award a reasonable attor-*  
12 *ney’s fee as a part of the damages for which a carrier or*  
13 *broker is found liable under this subsection. The district*  
14 *court shall tax and collect that fee as a part of the costs*  
15 *of the action.*

16 **“§14705. Limitation on actions by and against car-**  
17 **riers**

18       “(a) *A carrier providing transportation or service sub-*  
19 *ject to jurisdiction under chapter 135 of this title must*  
20 *begin a civil action to recover charges for transportation*  
21 *or service provided by the carrier within 18 months after*  
22 *the claim accrues.*

23       “(b) *A person must begin a civil action to recover over-*  
24 *charges within 18 months after the claim accrues. If the*  
25 *claim is against a carrier providing transportation subject*

1 *to jurisdiction under chapter 135 of this title and an elec-*  
2 *tion to file a complaint with the Intermodal Surface Trans-*  
3 *portation Board or Secretary of Transportation, as appli-*  
4 *cable, is made under section 14704(c)(1), the complaint*  
5 *must be filed within 3 years after the claim accrues.*

6       “(c) *A person must file a complaint with the Trans-*  
7 *portation Board or Secretary, as applicable, to recover*  
8 *damages under section 14704(b)(2) of this title within 2*  
9 *years after the claim accrues.*

10       “(d) *The limitation periods under subsection (b) of this*  
11 *section are extended for 6 months from the time written*  
12 *notice is given to the claimant by the carrier of disallow-*  
13 *ance of any part of the claim specified in the notice if a*  
14 *written claim is given to the carrier within those limitation*  
15 *periods. The limitation periods under subsection (b) of this*  
16 *section and the 2-year period under subsection (c) of this*  
17 *section are extended for 90 days from the time the carrier*  
18 *begins a civil action under subsection (a) of this section*  
19 *to recover charges related to the same transportation or*  
20 *service, or collects (without beginning a civil action under*  
21 *that subsection) the charge for that transportation or service*  
22 *if that action is begun or collection is made within the ap-*  
23 *propriate period.*

24       “(e) *A person must begin a civil action to enforce an*  
25 *order of the Transportation Board or Secretary against a*

1 carrier for the payment of money within one year after the  
2 date the order required the money to be paid.

3 “(f) This section applies to transportation for the  
4 United States Government. The time limitations under this  
5 section are extended, as related to transportation for or on  
6 behalf of the United States Government, for 3 years from  
7 the date of (1) payment of the rate for the transportation  
8 or service involved, (2) subsequent refund for overpayment  
9 of that rate, or (3) deduction made under section 3726 of  
10 title 31, whichever is later.

11 “(g) A claim related to a shipment of property accrues  
12 under this section on delivery or tender of delivery by the  
13 carrier.

14 **“§ 14706. Liability of carriers under receipts and bills**  
15 **of lading**

16 “(a)(1) A carrier providing transportation or service  
17 subject to jurisdiction under subchapter I or III of chapter  
18 135 of this title shall issue a receipt or bill of lading for  
19 property it receives for transportation under this part. That  
20 carrier and any other carrier that delivers the property and  
21 is providing transportation or service subject to jurisdiction  
22 under subchapter I or III of chapter 135 or chapter 105  
23 of this title are liable to the person entitled to recover under  
24 the receipt or bill of lading. The liability imposed under  
25 this paragraph is for the actual loss or injury to the prop-

erty caused by (1) the receiving carrier, (2) the delivering carrier, or (3) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff filed under section 13702 of this title. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

“(2) A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 of this title to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder’s bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder’s delivery receipt.



1       “(b) *The carrier issuing the receipt or bill of lading*  
2 *under subsection (a) of this section or delivering the prop-*  
3 *erty for which the receipt or bill of lading was issued is*  
4 *entitled to recover from the carrier over whose line or route*  
5 *the loss or injury occurred the amount required to be paid*  
6 *to the owners of the property, as evidenced by a receipt,*  
7 *judgment, or transcript, and the amount of its expenses rea-*  
8 *sonably incurred in defending a civil action brought by that*  
9 *person.*

10       “(c)(1) *A carrier may limit liability imposed under*  
11 *subsection (a) by establishing rates for the transportation*  
12 *of property (other than household goods) under which the*  
13 *liability of the carrier for such property is limited to a*  
14 *value established by written or electronic declaration of the*  
15 *shipppper or by a mutual written agreement between the car-*  
16 *rier and shipper.*

17       “(2) *If loss or injury to property occurs while it is*  
18 *in the custody of a water carrier, the liability of that carrier*  
19 *is determined by its bill of lading and the law applicable*  
20 *to water transportation. The liability of the initial or deliv-*  
21 *ering carrier is the same as the liability of the water car-*  
22 *rier.*

23       “(d)(1) *A civil action under this section may be*  
24 *brought against a delivering carrier (other than a rail car-*  
25 *rier) in a district court of the United States or in a State*

1 court. Trial, if the action is brought in a district court of  
2 the United States is in a judicial district, and if in a State  
3 court, is in a State through which the defendant carrier  
4 operates.

5 “(2)(A) A civil action under this section may be  
6 brought against the carrier alleged to have caused the loss  
7 or damage, in the judicial district in which such loss or  
8 damage is alleged to have occurred.

9 “(B) A civil action under this section may be brought  
10 in a United States district court or in a State court.

11 “(C) In this section, ‘judicial district’ means (i) in the  
12 case of a United States district court, a judicial district  
13 of the United States, and (ii) in the case of a State court,  
14 the applicable geographic area over which such court exer-  
15 cises jurisdiction.

16 “(e) A carrier may not provide by rule, contract, or  
17 otherwise, a period of less than 9 months for filing a claim  
18 against it under this section and a period of less than 2  
19 years for bringing a civil action against it under this sec-  
20 tion. The period for bringing a civil action is computed  
21 from the date the carrier gives a person written notice that  
22 the carrier has disallowed any part of the claim specified  
23 in the notice. For the purposes of this subsection—

24 “(1) an offer of compromise shall not constitute  
25 a disallowance of any part of the claim unless the

1        *carrier, in writing, informs the claimant that such*  
2        *part of the claim is disallowed and provides reasons*  
3        *for such disallowance; and*

4                *“(2) communications received from a carrier’s*  
5        *insurer shall not constitute a disallowance of any*  
6        *part of the claim unless the insurer, in writing, in-*  
7        *forms the claimant that such part of the claim is dis-*  
8        *allowed, provides reason for such disallowance, and*  
9        *informs the claimant that the insurer is acting on be-*  
10       *half of the carrier.*

11        *“(f) A carrier or group of carriers subject to jurisdic-*  
12       *tion under subchapter I or III of chapter 135 of this title*  
13       *may petition the Transportation Board to modify, elimi-*  
14       *nate, or establish rates for the transportation of household*  
15       *goods under which the liability of the carrier for that prop-*  
16       *erty is limited to a value established by written declaration*  
17       *of the shipper or by a written agreement.*

18        *“(g) Within one year after enactment of the Interstate*  
19       *Commerce Commission Sunset Act of 1995, the Secretary*  
20       *shall deliver to the appropriate Congressional authorizing*  
21       *committees a report on the benefit of revising or modifying*  
22       *the terms or applicability of this section, together with any*  
23       *proposed legislation to implement the study’s recommenda-*  
24       *tions, if any.*

1   **“§ 14707. Private enforcement of registration require-**  
2                                   **ment**

3           “(a) *If a person provides transportation by motor ve-*  
4 *hicle or service in clear violation of section 13901–13904*  
5 *or 13906 of this title, a person injured by the transportation*  
6 *or service may bring a civil action to enforce any such sec-*  
7 *tion. In a civil action under this subsection, trial is in the*  
8 *judicial district in which the person who violated that sec-*  
9 *tion operates.*

10          “(b) *A copy of the complaint in a civil action under*  
11 *subsection (a) of this section shall be served on the Secretary*  
12 *of Transportation and a certificate of service must appear*  
13 *in the complaint filed with the court. The Secretary may*  
14 *intervene in a civil action under subsection (a) of this sec-*  
15 *tion. The Secretary may notify the district court in which*  
16 *the action is pending that the Secretary intends to consider*  
17 *the matter that is the subject of the complaint in a proceed-*  
18 *ing before the Secretary. When that notice is filed, the court*  
19 *shall stay further action pending disposition of the proceed-*  
20 *ing before the Secretary.*

21          “(c) *In a civil action under subsection (a) of this sec-*  
22 *tion, the court may determine the amount of and award*  
23 *a reasonable attorney’s fee to the prevailing party. That fee*  
24 *is in addition to costs allowable under the Federal Rules*  
25 *of Civil Procedure.*

1   **“§ 14708. Dispute settlement program for household**  
2                   **goods carriers**

3           “(a)(1) *As a condition of registration under section*  
4 *13902 or 13903 of this title, a carrier providing transpor-*  
5 *tation of household goods subject to jurisdiction under sub-*  
6 *chapter I or III of chapter 135 of this title must agree to*  
7 *offer to shippers neutral arbitration as a means of settling*  
8 *disputes between such carriers and shippers of household*  
9 *goods concerning the transportation of household goods.*

10          “(b)(1) *The arbitration that is offered must be designed*  
11 *to prevent a carrier from having any special advantage in*  
12 *any case in which the claimant resides or does business at*  
13 *a place distant from the carrier’s principal or other place*  
14 *of business.*

15          “(2) *The carrier must provide the shipper an adequate*  
16 *notice of the availability of neutral arbitration, including*  
17 *a concise easy-to-read, accurate summary of the arbitration*  
18 *procedure and disclosure of the legal effects of election to*  
19 *utilize arbitration. Such notice must be given to persons*  
20 *for whom household goods are to be transported by the car-*  
21 *rier before such goods are tendered to the carrier for trans-*  
22 *portation.*

23          “(3) *Upon request of a shipper, the carrier must*  
24 *promptly provide such forms and other information as are*  
25 *necessary for initiating an action to resolve a dispute under*  
26 *arbitration.*

1       “(4) *Each person authorized to arbitrate or otherwise*  
2 *settle disputes must be independent of the parties to the dis-*  
3 *pute and must be capable, as determined under such regula-*  
4 *tions as the Secretary of Transportation may issue, to re-*  
5 *solve such disputes fairly and expeditiously. The carrier*  
6 *must ensure that each person chosen to settle the disputes*  
7 *is authorized and able to obtain from the shipper or carrier*  
8 *any material and relevant information to the extent nec-*  
9 *essary to carry out a fair and expeditious decision making*  
10 *process.*

11       “(5) *No fee for instituting an arbitration proceeding*  
12 *may be charged the shipper; except that, if the arbitration*  
13 *is binding solely on the carrier, the shipper may be charged*  
14 *a fee of not more than \$25 for instituting an arbitration*  
15 *proceeding. In any case in which a shipper is charged a*  
16 *fee under this paragraph for instituting an arbitration pro-*  
17 *ceeding and such dispute is settled in favor of the shipper,*  
18 *the person settling the dispute must refund such fee to the*  
19 *shipper unless the person settling the dispute determines*  
20 *that such refund is inappropriate.*

21       “(6) *The carrier must not require the shipper to agree*  
22 *to utilize arbitration prior to the time that a dispute arises.*

23       “(7) *The arbitrator may provide for an oral presen-*  
24 *tation of a dispute concerning transportation of household*  
25 *goods by a party to the dispute (or a party’s representa-*

1 *tive), but such oral presentation may be made only if all*  
 2 *parties to the dispute expressly agree to such presentation*  
 3 *and the date, time, and location of such presentation.*

4       “(8) *The arbitrator must, as expeditiously as possible*  
 5 *but at least within 60 days of receipt of written notification*  
 6 *of the dispute, render a decision based on the information*  
 7 *gathered, except that, in any case in which a party to the*  
 8 *dispute fails to provide in a timely manner any informa-*  
 9 *tion concerning such dispute which the person settling the*  
 10 *dispute may reasonably require to resolve the dispute, the*  
 11 *arbitrator may extend such 60-day period for a reasonable*  
 12 *period of time. A decision resolving a dispute may include*  
 13 *any remedies appropriate under the circumstances, includ-*  
 14 *ing repair, replacement, refund, reimbursement for ex-*  
 15 *penses, and compensation for damages.*

16       “(c) *Materials and information obtained in the course*  
 17 *of a decision making process to settle a dispute by arbitra-*  
 18 *tion under this section may not be used to bring an action*  
 19 *under section 14905 of this title.*

20       “(d) *In any court action to resolve a dispute between*  
 21 *a shipper of household goods and a motor carrier providing*  
 22 *transportation or service subject to jurisdiction under sub-*  
 23 *chapter I or III of chapter 135 of this title concerning the*  
 24 *transportation of household goods by such carrier, the ship-*  
 25 *per shall be awarded reasonable attorney’s fees if—*

1           “(1) the shipper submits a claim to the carrier  
2           within 120 days after the date the shipment is deliv-  
3           ered or the date the delivery is scheduled, whichever  
4           is later;

5           “(2) the shipper prevails in such court action;  
6           and

7           “(3)(A) a decision resolving the dispute was not  
8           rendered through arbitration under this section with-  
9           in the period provided under subsection (b)(8) of this  
10          section or an extension of such period under such sub-  
11          section; or

12          “(B) the court proceeding is to enforce a decision  
13          rendered through arbitration under this section and is  
14          instituted after the period for performance under such  
15          decision has elapsed.

16          “(e) In any court action to resolve a dispute between  
17          a shipper of household goods and a carrier providing trans-  
18          portation, or service subject to jurisdiction under sub-  
19          chapter I or III of chapter 135 of this title concerning the  
20          transportation of household goods by such carrier, such car-  
21          rier may be awarded reasonable attorney’s fees by the court  
22          only if the shipper brought such action in bad faith—

23          “(1) after resolution of such dispute through ar-  
24          bitration under this section; or



1           “(2) after institution of an arbitration proceed-  
 2           ing by the shipper to resolve such dispute under this  
 3           section but before (A) the period provided under sub-  
 4           section (b)(8) for resolution of such dispute (includ-  
 5           ing, if applicable, an extension of such period under  
 6           such subsection) ends, and (B) a decision resolving  
 7           such dispute is rendered.

8           “(f) The provisions of this section shall apply only in  
 9           the case of collect-on-delivery transportation of those types  
 10          of household goods described in section 13102(9)(A) of this  
 11          title.

12       **“§ 14709. Tariff reconciliation rules for motor carriers**  
 13               **of property**

14           “Subject to review and approval by the Intermodal  
 15          Surface Transportation Board, motor carriers subject to ju-  
 16          risdiction under subchapter I of chapter 135 of this title  
 17          (other than motor carriers providing transportation of  
 18          household goods) and shippers may resolve, by mutual con-  
 19          sent, overcharge and under-charge claims resulting from in-  
 20          correct tariff provisions or billing errors arising from the  
 21          inadvertent failure to properly and timely file and main-  
 22          tain agreed upon rates, rules, or classifications in compli-  
 23          ance with section 13702 of this part or sections 10761 and  
 24          10762 of this title prior to the effective date of the Interstate  
 25          Commerce Commission Sunset Act of 1995. Resolution of

1 *such claims among the parties shall not subject any party*  
 2 *to the penalties for departing from a filed tariff.*

3 ***“CHAPTER 149—CIVIL AND CRIMINAL PENALTIES***

4 ***“§ 14901. General civil penalties***

5 *“(a) A person required to make a report to the Sec-*  
 6 *retary of Transportation or to the Intermodal Surface*  
 7 *Transportation Board, answer a question, or make, pre-*  
 8 *pare, or preserve a record under this part concerning trans-*  
 9 *portation subject to jurisdiction under subchapter I or III*  
 10 *of chapter 135 of this title or transportation by a foreign*  
 11 *carrier registered under section 13902 of this title, or an*  
 12 *officer, agent, or employee of that person that (1) does not*  
 13 *make the report, (2) does not specifically, completely, and*  
 14 *truthfully answer the question, (3) does not make, prepare,*  
 15 *or preserve the record in the form and manner prescribed,*  
 16 *(4) does not comply with section 13901 of this title, or (5)*  
 17 *does not comply with section 13902(c) of this title is liable*  
 18 *to the United States Government for a civil penalty of not*  
 19 *less than \$500 for each violation and for each additional*  
 20 *day the violation continues; except that, in the case of a*  
 21 *person who does not have authority under this part to pro-*  
 22 *vide transportation of passengers, or an officer, agent, or*  
 23 *employee of such person, that does not comply with section*  
 24 *13901 of this title with respect to providing transportation*  
 25 *of passengers, the amount of the civil penalty shall not be*

1 less than \$2,000 for each violation and for each additional  
2 day the violation continues.

3 “(b) A person subject to jurisdiction under subchapter  
4 I of chapter 135 of this title, or an officer, agent, or em-  
5 ployee of that person, and who is required to comply with  
6 section 13901 of this title but does not so comply with re-  
7 spect to the transportation of hazardous wastes as defined  
8 by the Environmental Protection Agency pursuant to sec-  
9 tion 3001 of the Solid Waste Disposal Act (but not includ-  
10 ing any waste the regulation of which under the Solid  
11 Waste Disposal Act has been suspended by Congress) shall  
12 be liable to the United States for a civil penalty not to ex-  
13 ceed \$20,000 for each violation.

14 “(c) In determining and negotiating the amount of a  
15 civil penalty under subsection (a) or (d) concerning trans-  
16 portation of household goods, the degree of culpability, any  
17 history of prior such conduct, the degree of harm to shipper  
18 or shippers, ability to pay, the effect on ability to do busi-  
19 ness, whether the shipper has been adequately compensated  
20 before institution of the proceeding, and such other matters  
21 as fairness may require shall be taken into account.

22 “(d) If a carrier providing transportation of household  
23 goods subject to jurisdiction under subchapter I or III of  
24 chapter 135 of this title or a receiver or trustee of such car-  
25 rier fails or refuses to comply with any regulation issued

1 *by the Secretary or the Transportation Board relating to*  
2 *protection of individual shippers, such carrier, receiver, or*  
3 *trustee is liable to the United States for a civil penalty of*  
4 *not less than \$1,000 for each violation and for each addi-*  
5 *tional day during which the violation continues.*

6       “(e) *Any person that knowingly engages in or know-*  
7 *ingly authorizes an agent or other person (1) to falsify doc-*  
8 *uments used in the transportation of household goods subject*  
9 *to jurisdiction under subchapter I or III of chapter 135 of*  
10 *this title which evidence the weight of a shipment, or (2)*  
11 *to charge for accessorial services which are not performed*  
12 *or for which the carrier is not entitled to be compensated*  
13 *in any case in which such services are not reasonably nec-*  
14 *essary in the safe and adequate movement of the shipment,*  
15 *is liable to the United States for a civil penalty of not less*  
16 *than \$2,000 for each violation and of not less than \$5,000*  
17 *for each subsequent violation. Any State may bring a civil*  
18 *action in the United States district courts to compel a per-*  
19 *son to pay a civil penalty assessed under this subsection.*

20       “(f) *A person, or an officer, employee, or agent of that*  
21 *person, that knowingly pays accepts, or solicits a reduced*  
22 *rate or rates in violation of the regulations issued under*  
23 *section 13707 of this title is liable to the injured party or*  
24 *the United States for a civil penalty of not less than \$5,000*

1 *and not more than \$10,000 plus 3 times the amount of*  
 2 *damages which a party incurs because of such violation.*

3       “(g) *Trial in a civil action under subsections (a)*  
 4 *through (f) of this section is in the judicial district in which*  
 5 *(1) the carrier or broker has its principal office, (2) the*  
 6 *carrier or broker was authorized to provide transportation*  
 7 *or service under this part when the violation occurred, (3)*  
 8 *the violation occurred, or (4) the offender is found. Process*  
 9 *in the action may be served in the judicial district of which*  
 10 *the offender is an inhabitant or in which the offender may*  
 11 *be found.*

12       **“§ 14902. Civil penalty for accepting rebates from**  
 13                       **carrier**

14       “A person—

15               “(1) *delivering property to a carrier providing*  
 16 *transportation or service subject to jurisdiction under*  
 17 *chapter 135 of this title for transportation under this*  
 18 *part or for whom that carrier will transport the prop-*  
 19 *erty as consignor or consignee for that person from a*  
 20 *State or territory or possession of the United States*  
 21 *to another State or possession, territory, or to a for-*  
 22 *foreign country; and*

23               “(2) *knowingly accepting or receiving by any*  
 24 *means a rebate or offset against the rate for transpor-*

1        *tation for, or service of, that property contained in a*  
 2        *tariff required under section 13702 of this title,*  
 3        *is liable to the United States Government for a civil penalty*  
 4        *in an amount equal to 3 times the amount of money that*  
 5        *person accepted or received as a rebate or offset and 3 times*  
 6        *the value of other consideration accepted or received as a*  
 7        *rebate or offset. In a civil action under this section, all*  
 8        *money or other consideration received by the person during*  
 9        *a period of 6 years before an action is brought under this*  
 10       *section may be included in determining the amount of the*  
 11       *penalty, and if that total amount is included, the penalty*  
 12       *shall be 3 times that total amount.*

13       ***“§ 14903. Tariff violations***

14       *“(a) A person that knowingly offers, grants, gives, so-*  
 15       *licits, accepts, or receives by any means transportation or*  
 16       *service provided for property by a carrier subject to juris-*  
 17       *isdiction under chapter 135 of this title at less than the rate*  
 18       *in effect under section 13702 of this title shall be fined at*  
 19       *least \$1,000 but not more than \$20,000, imprisoned for not*  
 20       *more than 2 years, or both.*

21       *“(b) A carrier providing transportation or service sub-*  
 22       *ject to jurisdiction under chapter 135 of this title or an*  
 23       *officer, director, receiver, trustee, lessee, agent, or employee*  
 24       *of a corporation that is subject to jurisdiction under that*  
 25       *chapter, that willfully does not observe its tariffs as required*

1 *under section 13702 of this title, shall be fined at least*  
 2 *\$1,000 but not more than \$20,000, imprisoned for not more*  
 3 *than 2 years, or both.*

4       “(c) *When acting in the scope of their employment, the*  
 5 *actions and omissions of persons acting for or employed by*  
 6 *a carrier or shipper that is subject to subsection (a) or (b)*  
 7 *of this section are considered to be the actions and omissions*  
 8 *of that carrier or shipper as well as that person.*

9       “(d) *Trial in a criminal action under this section is*  
 10 *in the judicial district in which any part of the violation*  
 11 *is committed or through which the transportation is con-*  
 12 *ducted.*

13       **“§ 14904. Additional rate violations**

14       “(a) *A person, or an officer, employee, or agent of that*  
 15 *person, that—*

16               “(1) *knowingly offers, grants, gives, solicits, ac-*  
 17 *cepts, or receives a rebate for concession, in violation*  
 18 *of a provision of this part related to motor carrier*  
 19 *transportation subject to jurisdiction under sub-*  
 20 *chapter I of chapter 135 of this title; or*

21               “(2) *by any means knowingly and willfully as-*  
 22 *sists or permits another person to get transportation*  
 23 *that is subject to jurisdiction under that subchapter*  
 24 *at less than the rate in effect for that transportation*  
 25 *under section 13702 of this title,*

1 *shall be fined at least \$200 for the first violation and at*  
 2 *least \$250 for a subsequent violation.*

3       “(b)(1) *A freight forwarder providing service subject*  
 4 *to jurisdiction under subchapter III of chapter 135 of this*  
 5 *title, or an officer, agent, or employee of that freight for-*  
 6 *warder, that knowingly and willfully assists a person in*  
 7 *getting, or willingly permits a person to get, service pro-*  
 8 *vided under that subchapter at less than the rate in effect*  
 9 *for that service under section 13702 of this title, shall be*  
 10 *fined not more than \$500 for the first violation and not*  
 11 *more than \$2,000 for a subsequent violation.*

12       “(2) *A person that knowingly and willfully by any*  
 13 *means gets, or attempts to get, service provided under sub-*  
 14 *chapter III of chapter 135 of this title at less than the rate*  
 15 *in effect for that service under section 13702 of this title,*  
 16 *shall be fined not more than \$500 for the first violation*  
 17 *and not more than \$2,000 for a subsequent violation.*

18       **“§ 14905. Penalties for violations of rules relating to**  
 19               **loading and unloading motor vehicles**

20       “(a) *Any person who knowingly authorizes, consents*  
 21 *to, or permits a violation of subsection (a) or (b) of section*  
 22 *14103 of this title or who knowingly violates subsection (a)*  
 23 *of such section is liable to the United States Government*  
 24 *for a civil penalty of not more than \$10,000 for each viola-*  
 25 *tion.*



1       “(b) Any person who knowingly violates section  
 2 14103(b) of this title shall be fined not more than \$10,000,  
 3 imprisoned for not more than 2 years, or both.

4       **“§ 14906. Evasion of regulation of carriers and bro-**  
 5                               **kers**

6       “A person, or an officer, employee, or agent of that  
 7 person that by any means knowingly and willfully tries to  
 8 evade regulation provided under this part for carriers or  
 9 brokers shall be fined at least \$200 for the first violation  
 10 and at least \$250 for a subsequent violation.

11       **“§ 14907. Record keeping and reporting violations**

12       “A person required to make a report to the Secretary  
 13 of Transportation or to the Intermodal Surface Transpor-  
 14 tation Board, as applicable, answer a question, or make,  
 15 prepare, or preserve a record under this part about trans-  
 16 portation subject to jurisdiction under subchapter I or III  
 17 of chapter 135 of this title, or an officer, agent, or employee  
 18 of that person, that (1) willfully does not make that report,  
 19 (2) willfully does not specifically, completely, and truthfully  
 20 answer that question in 30 days from the date the Secretary  
 21 or Transportation Board, as applicable, requires the ques-  
 22 tion to be answered, (3) willfully does not make, prepare,  
 23 or preserve that record in the form and manner prescribed,  
 24 (4) knowingly and willfully falsifies, destroys, mutilates, or  
 25 changes that report or record, (5) knowingly and willfully

1 *files a false report or record, (6) knowingly and willfully*  
 2 *makes a false or incomplete entry in that record about a*  
 3 *business related fact or transaction, or (7) knowingly and*  
 4 *willfully makes, prepares, or preserves a record in violation*  
 5 *of an applicable regulation or order of the Secretary or*  
 6 *Transportation Board shall be fined not more than \$5,000.*

7 ***“§ 14908. Unlawful disclosure of information***

8       “(a)(1) *A carrier or broker providing transportation*  
 9 *subject to jurisdiction under subchapter I, II, or III of chap-*  
 10 *ter 135 of this title or an officer, receiver, trustee, lessee,*  
 11 *or employee of that carrier or broker, or another person au-*  
 12 *thorized by that carrier or broker to receive information*  
 13 *from that carrier or broker may not knowingly disclose to*  
 14 *another person, except the shipper or consignee, and another*  
 15 *person may not solicit, or knowingly receive, information*  
 16 *about the nature, kind, quantity, destination, consignee, or*  
 17 *routing of property tendered or delivered to that carrier or*  
 18 *broker for transportation provided under this part without*  
 19 *the consent of the shipper or consignee if that information*  
 20 *may be used to the detriment of the shipper or consignee*  
 21 *or may disclose improperly to a competitor the business*  
 22 *transactions of the shipper or consignee.*

23       “(2) *A person violating paragraph (1) of this sub-*  
 24 *section shall be fined not less than \$2,000. Trial in a crimi-*

1 *nal action under this paragraph is in the judicial district*  
 2 *in which any part of the violation is committed.*

3       “(b) *This part does not prevent a carrier or broker pro-*  
 4 *viding transportation subject to jurisdiction under chapter*  
 5 *135 of this title from giving information—*

6               “(1) *in response to legal process issued under au-*  
 7 *thority of a court of the United States or a State;*

8               “(2) *to an officer, employee, or agent of the Unit-*  
 9 *ed States Government, a State, or a territory or pos-*  
 10 *session of the United States; or*

11               “(3) *to another carrier or its agent to adjust mu-*  
 12 *tual traffic accounts in the ordinary course of busi-*  
 13 *ness.*

14 **“§ 14909. Disobedience to subpoenas**

15       “A *person not obeying a subpoena or requirement of*  
 16 *the Secretary of Transportation or the Intermodal Surface*  
 17 *Transportation Board to appear and testify or produce*  
 18 *records shall be fined not less than \$5,000, imprisoned for*  
 19 *not more than one year, or both.*

20 **“§ 14910. General criminal penalty when specific pen-**  
 21 ***alty not provided***

22       “*When another criminal penalty is not provided under*  
 23 *this chapter, a person that knowingly and willfully violates*  
 24 *a provision of this part or a regulation or order prescribed*  
 25 *under this part, or a condition of a registration under this*

1 *part related to transportation that is subject to jurisdiction*  
 2 *under subchapter I or III of chapter 135 of this title or*  
 3 *a condition of a registration under section 13902 of this*  
 4 *title, shall be fined at least \$500 for the first violation and*  
 5 *at least \$500 for a subsequent violation. A separate viola-*  
 6 *tion occurs each day the violation continues.*

7 ***“§14911. Punishment of corporation for violations***  
 8 ***committed by certain individuals***

9 *“An act or omission that would be a violation of this*  
 10 *part if committed by a director, officer, receiver, trustee,*  
 11 *lessee, agent, or employee of a carrier providing transpor-*  
 12 *tation or service subject to jurisdiction under chapter 135*  
 13 *of this title that is a corporation is also a violation of this*  
 14 *part by that corporation. The penalties of this chapter*  
 15 *apply to that violation. When acting in the scope of their*  
 16 *employment, the actions and omissions of individuals act-*  
 17 *ing for or employed by that carrier are considered to be*  
 18 *the actions and omissions of that carrier as well as that*  
 19 *individual.*

20 ***“§14912. Weight-bumping in household goods trans-***  
 21 ***portation***

22 *“(a) For the purposes of this section, ‘weight-bumping’*  
 23 *means the knowing and willful making or securing of a*  
 24 *fraudulent weight on a shipment of household goods which*

1 *is subject to jurisdiction under subchapter I or III of chap-*  
 2 *ter 135 of this title.*

3       “(b) *Any individual who has been found to have com-*  
 4 *mitted weight-bumping shall, for each offense, be fined at*  
 5 *least \$1,000 but not more than \$10,000, imprisoned for not*  
 6 *more than 2 years, or both.*

7       **“§14913. Conclusiveness of rates in certain prosecu-**  
 8               **tions**

9       “*When a carrier publishes or files a particular rate*  
 10 *under section 13702 or participates in such a rate, the pub-*  
 11 *lished or filed rate is conclusive proof against that carrier,*  
 12 *its officers, and agents that it is the legal rate for that trans-*  
 13 *portation or service in a proceeding begun under section*  
 14 *14902 or 14903 of this title. A departure, or offer to depart,*  
 15 *from that published or filed rate is a violation of those sec-*  
 16 *tions.”.*

17       **Subtitle B—Motor Carrier Registra-**  
 18               **tion and Insurance Require-**  
 19               **ments**

20       **SEC. 451. AMENDMENT OF SECTION 31102.**

21       *Section 31102(b)(1) is amended by—*

22               (1) *striking “and” at the end of subparagraph*  
 23               *(O);*

24               (2) *striking the period at the end of subpara-*  
 25               *graph (P) and inserting a semicolon and “and”; and*

1           (3) adding at the end thereof the following:

2           “(Q) ensures that the State will cooperate in the  
3           enforcement of registration and financial responsibil-  
4           ity requirements under sections 31140 and 31146 of  
5           this title, or regulations issued thereunder.”

6   **SEC. 452. AMENDMENT OF SECTION 31138.**

7           (a) Section 31138(c) is amended by adding at the end  
8           thereof the following new paragraph:

9           “(3) A motor carrier may obtain the required  
10          amount of financial responsibility from more than  
11          one source provided the cumulative amount is equal  
12          to the minimum requirements of this section.”.

13          (b) Section 31138(e) is amended—

14               (1) by striking “or” at the end of paragraph (2);

15               (2) by striking the period at the end of para-  
16          graph (3) and inserting “; or”; and

17               (3) by adding at the end the following:

18               “(4) providing mass transportation service with-  
19          in a transit service area under an agreement with a  
20          Federal, State, or local government funded, in whole  
21          or in part, with a grant under section 5307, 5310, or  
22          5311, including transportation designed and carried  
23          out to meet the special needs of elderly individuals  
24          and individuals with disabilities; Provided That, in  
25          any case in which the transit service area is located

1       *in more than 1 State, the minimum level of financial*  
 2       *responsibility for such motor vehicle will be at least*  
 3       *the highest level required for any of such States.”.*

4       *(c) Section 31139(e) is amended by adding at the end*  
 5       *thereof the following:*

6               *“(3) A motor carrier may obtain the required*  
 7       *amount of financial responsibility from more than*  
 8       *one source provided the cumulative amount is equal*  
 9       *to the minimum requirements of this section.”.*

10    ***SEC. 453. SELF-INSURANCE RULES.***

11       *The Secretary of Transportation shall continue to en-*  
 12       *force the rules and regulations of the Interstate Commerce*  
 13       *Commission, as in effect on July 1, 1995, governing the*  
 14       *qualifications for approval of a motor carrier as a self-in-*  
 15       *surer, until such time as the Secretary finds it in the public*  
 16       *interest to revise such rules. The revised rules must provide*  
 17       *for—*

18               *(1) continued ability of motor carriers to qualify*  
 19       *as self-insurers; and*

20               *(2) the continued qualification of all carriers*  
 21       *then so qualified under the terms and conditions set*  
 22       *by the Interstate Commerce Commission or Secretary*  
 23       *at the time of qualification.*

24    ***SEC. 454. SAFETY FITNESS OF OWNERS AND OPERATORS.***

25       *Section 31144 is amended by—*

1           (1) striking “In cooperation with the Interstate  
2           Commerce Commission, the” in the first sentence of  
3           subsection (a) and inserting “The”;

4           (2) by striking “sections 10922 and 10923” in  
5           that sentence and inserting “section 13902”;

6           (3) striking “and the Commission” in subsection  
7           (a)(1)(C); and

8           (4) striking subsection (b) and inserting the fol-  
9           lowing:

10          “(b) *FINDINGS AND ACTION ON REGISTRATIONS.*—The  
11          Secretary shall—

12               “(1) find a registrant as a motor carrier unfit  
13               if the registrant does not meet the safety fitness re-  
14               quirements established under subsection (a) of this  
15               section; and

16               “(2) withhold registration.”.

17               ***TITLE V—AMENDMENTS TO***  
18               ***OTHER LAWS***

19          ***SEC. 501. FEDERAL ELECTION CAMPAIGN ACT OF 1971.***

20          Section 401 of the Federal Election Campaign Act of  
21          1971 (2 U.S.C. 451) is amended by—

22               (1) striking “Interstate Commerce Commission,”  
23               and inserting “Intermodal Surface Transportation  
24               Board,”; and



1           (2) striking “promulgate, within ninety days  
2           after the date of enactment of this Act,” and inserting  
3           “maintain”.

4   **SEC. 502. AGRICULTURAL ADJUSTMENT ACT OF 1938.**

5           Section 201 of the Agricultural Adjustment Act of 1938  
6   (7 U.S.C. 1291) is amended by—

7           (1) striking “Interstate Commerce Commission”  
8           and inserting “Intermodal Surface Transportation  
9           Board” each place it appears;

10          (2) striking “Commission”, wherever it appears  
11          and inserting “Transportation Board”; and

12          (3) striking “Commission’s” in subsection (b)  
13          and inserting “Transportation Board’s”.

14   **SEC. 503. AGRICULTURAL MARKETING ACT OF 1946.**

15          Section 203(j) of the Agricultural Marketing Act of  
16   1946 (7 U.S.C. 1622(j)) is amended by striking “Interstate  
17   Commerce Commission,” and inserting “Intermodal Sur-  
18   face Transportation Board,”.

19   **SEC. 504. ANIMAL WELFARE ACT.**

20          Section 15(a) of the Animal Welfare Act (7 U.S.C.  
21   2145(a)) is amended by striking “Interstate Commerce  
22   Commission” and inserting “Intermodal Surface Transpor-  
23   tation Board”.

1 **SEC. 505. TITLE 11, UNITED STATES CODE.**

2 (a) Section 1164 of title 11, United States Code, is  
 3 amended by striking “Commission” and inserting “Inter-  
 4 modal Surface Transportation Board”.

5 (b) Section 1170 of title 11, United States Code, is  
 6 amended by—

7 (1) striking “Commission” the first time it ap-  
 8 pears in subsection (b) and inserting “Intermodal  
 9 Surface Transportation Board”; and

10 (2) striking “Commission” wherever else it ap-  
 11 pears and inserting “Transportation Board”.

12 (c) Section 1172 of title 11, United States Code, is  
 13 amended by—

14 (1) striking “Commission” the first time it ap-  
 15 pears in subsection (b) and inserting “Intermodal  
 16 Surface Transportation Board”; and

17 (2) striking “Commission” wherever else it ap-  
 18 pears and inserting “Transportation Board”.

19 **SEC. 506. CLAYTON ACT.**

20 The Clayton Act (15 U.S.C. 12 et seq.) is amended  
 21 by—

22 (1) striking “Interstate Commerce Commission”  
 23 in the last sentence of section 7 (15 U.S.C. 18) and  
 24 inserting “Intermodal Surface Transportation  
 25 Board”;

1           (2) inserting a comma and “Transportation  
2       Board,” after “such Commission” in the last sentence  
3       of that section;

4           (3) striking “Interstate Commerce Commission”  
5       in the first sentence of section 11(a) (15 U.S.C. 21)  
6       and inserting “Intermodal Surface Transportation  
7       Board”; and

8           (4) striking “Interstate Commerce Commission”  
9       in section 16 (15 U.S.C. 26) and inserting “Inter-  
10      modal Surface Transportation Board”.

11 **SEC. 507. CONSUMER CREDIT PROTECTION ACT.**

12       The Consumer Credit Protection Act (15 U.S.C. 1601  
13 *et seq.*) is amended by—

14           (1) striking “Interstate Commerce Commission”  
15       in section 621(b)(4) (15 U.S.C. 1681s) and inserting  
16       “Intermodal Surface Transportation Board”;

17           (2) inserting a comma and “and part B of sub-  
18       title IV of title 49, United States Code, by the Sec-  
19       retary of Transportation with respect to any common  
20       carrier subject to such part;” in section 621(b)(4) (15  
21       U.S.C. 1681s) after “those Acts”;

22           (3) striking “Interstate Commerce Commission”  
23       in section 704(a)(4) (15 U.S.C. 1691c) and inserting  
24       “Intermodal Surface Transportation Board”;

1           (4) inserting a comma and “and part B of sub-  
 2           title IV of title 49, United States Code, by the Sec-  
 3           retary of Transportation with respect to any common  
 4           carrier subject to such part” in section 704(a)(4) (15  
 5           U.S.C. 1691c) after “those Acts”;

6           (5) striking “Interstate Commerce Commission”  
 7           in section 814(b)(4) (15 U.S.C. 1692l) and inserting  
 8           “Intermodal Surface Transportation Board”; and

9           (6) inserting a comma and “and part B of sub-  
 10          title IV of title 49, United States Code, by the Sec-  
 11          retary of Transportation with respect to any common  
 12          carrier subject to such part” in section 814(b)(4) (15  
 13          U.S.C. 1692l) after “those Acts”.

14   **SEC. 508. NATIONAL TRAILS SYSTEM ACT.**

15          *The National Trails System Act* (16 U.S.C. 1241 et  
 16   *seq.*) is amended by—

17           (1) striking “Interstate Commerce Commission”  
 18           in the first sentence of section 8(d) (16 U.S.C.  
 19           1247(d)) and inserting “Intermodal Surface Trans-  
 20           portation Board”;

21           (2) striking “Commission” in the last sentence of  
 22           section 8(d) (16 U.S.C. 1247(d)) and inserting  
 23           “Intermodal Surface Transportation Board”; and

1           (3) striking “Interstate Commerce Commission”  
 2           in section 9(b) (16 U.S.C. 1248(d)) and inserting  
 3           “Intermodal Surface Transportation Board”.

4   **SEC. 509. TITLE 18, UNITED STATES CODE.**

5           Section 6001 of title 18, United States Code, is amend-  
 6   ed by striking “Interstate Commerce Commission” in sub-  
 7   section (1) and inserting “Intermodal Surface Transpor-  
 8   tation Board”.

9   **SEC. 510. INTERNAL REVENUE CODE OF 1986.**

10          (a) Section 3231 of the Internal Revenue Code of 1986  
 11   (26 U.S.C. 3231) is amended by—

12           (1) striking “Interstate Commerce Commission”  
 13          in subsection (a) and inserting “Intermodal Surface  
 14          Transportation Board”; and

15           (2) striking subsection (g) and inserting the fol-  
 16   lowing:

17          “(g) CARRIER.—For purposes of this chapter, the term  
 18   ‘carrier’ means a rail carrier providing transportation sub-  
 19   ject to chapter 105 of title 49, United States Code.”.

20          (b) Section 7701(a) of the Internal Revenue Code of  
 21   1986 (26 U.S.C. 7701(a)) is amended by—

22           (1) striking “Federal Power Commission” in  
 23          paragraph (33)(B) and inserting “Federal Energy  
 24          Regulatory Commission”;

1           (2) *striking “Interstate Commerce Commission”*  
 2           *in paragraph (33)(C)(i) and inserting “Intermodal*  
 3           *Surface Transportation Board”;*

4           (3) *striking “Interstate Commerce Commission”*  
 5           *in paragraph (33)(C)(ii) with “Federal Energy Regu-*  
 6           *latory Commission”;*

7           (4) *striking “Interstate Commerce Commission*  
 8           *under subchapter III of chapter 105” in paragraph*  
 9           *(33)(F) and inserting “Secretary of Transportation*  
 10          *under subchapter II of chapter 135”;*

11          (5) *striking “subchapter I of” in paragraph*  
 12          *(33)(G); and*

13          (6) *striking “subchapter I of” in the first sen-*  
 14          *tence of paragraph (33)(H).*

15   **SEC. 511. TITLE 28, UNITED STATES CODE.**

16          (a) *The heading of chapter 157 of part VI of title 28,*  
 17          *United States Code, is amended by striking “INTER-*  
 18          *STATE COMMERCE COMMISSION” and inserting*  
 19          *“INTERMODAL SURFACE TRANSPORTATION*  
 20          *BOARD”.*

21          (b) *Section 2321 of title 28, United States Code, is*  
 22          *amended by—*

23               (1) *striking “Commission’s” in the section cap-*  
 24               *tion and inserting “Intermodal Surface Transpor-*  
 25               *tation Board’s”;* and

1           (2) *striking “Interstate Commerce Commission”*  
 2           *in subsections (a) and (b) and inserting “Intermodal*  
 3           *Surface Transportation Board”.*

4           (c) *Section 2323 of title 28, United States Code, is*  
 5           *amended by—*

6           (1) *striking “Interstate Commerce Commission”*  
 7           *and inserting “Intermodal Surface Transportation*  
 8           *Board”;* and

9           (2) *striking “Commission”, wherever it appears,*  
 10          *and inserting “Transportation Board”.*

11          (d) *Section 2341 of title 28, United States Code, is*  
 12          *amended by—*

13          (1) *striking “Interstate Commerce Commission”*  
 14          *in paragraph (3)(A);*

15          (2) *striking “and” in paragraph (3)(C);*

16          (3) *striking “Act.” in paragraph (3)(D) and in-*  
 17          *serting “Act; and”;* and

18          (4) *inserting after paragraph (3)(D) the follow-*  
 19          *ing:*

20                  *“(E) the Transportation Board, when the*  
 21                  *order was entered by the Intermodal Surface*  
 22                  *Transportation Board.”.*

23          (e) *Section 2342 of title 28, United States Code, is*  
 24          *amended by—*

1           (1) inserting “or pursuant to part B of subtitle  
2           IV of title 49, United States Code” at the end of para-  
3           graph (3)(A); and

4           (2) striking paragraph (5) and inserting the fol-  
5           lowing:

6           “(5) all rules, regulations, or final orders of the  
7           Intermodal Surface Transportation Board made  
8           reviewable by section 2321 of this title; and”.

9   **SEC. 512. MIGRANT AND SEASONAL AGRICULTURAL WORK-**  
10           **ER PROTECTION ACT.**

11           Section 401(b) of the Migrant and Seasonal Agricul-  
12           tural Worker Protection Act (29 U.S.C. 1841(b)) is amend-  
13           ed by—

14           (1) striking “part II of the Interstate Commerce  
15           Act (49 U.S.C. 301 et seq.), or any successor provi-  
16           sion of” in paragraph (2)(C) and inserting “part B  
17           of”; and

18           (2) striking “part II of the Interstate Commerce  
19           Act (49 U.S.C. 301 et seq.), and any successor provi-  
20           sion of” in paragraph (3) and inserting “part B of”.

21   **SEC. 513. TITLE 39, UNITED STATES CODE.**

22           (a) Section 5005 of title 39, United States Code, is  
23           amended by striking “Interstate Commerce Commission” in  
24           subsection (b)(3) and inserting “Intermodal Surface Trans-  
25           portation Board”.



1       (b) *Section 5203 of title 39, United States Code, is*  
 2 *amended by—*

3           (1) *striking subsection (f) and redesignating sub-*  
 4 *section (g) as subsection (f); and*

5           (2) *striking “Commission” in subsection (f), as*  
 6 *redesignated, and inserting “Intermodal Surface*  
 7 *Transportation Board”.*

8       (c) *Section 5207 of title 39, United States Code, is*  
 9 *amended by—*

10           (1) *striking “Interstate Commerce Commission”,*  
 11 *in both the section caption and subsection (a), and*  
 12 *inserting “Intermodal Surface Transportation*  
 13 *Board”; and*

14           (2) *striking “Commission” wherever it appears*  
 15 *and inserting “Transportation Board”.*

16       (d) *Section 5208 of title 39, United States Code, is*  
 17 *amended by—*

18           (1) *striking “Commission’s” in subsection (a)*  
 19 *and inserting “Transportation Board’s”; and*

20           (2) *striking “Commission” wherever it appears*  
 21 *and inserting “Transportation Board”.*

22       (e) *The index for chapter 52 of title 39, United States*  
 23 *Code, is amended by striking out the items relating to sec-*  
 24 *tion 5207 and inserting in lieu thereof the following:*

*“5207. Intermodal Surface Transportation Board to fix  
 rates.” .....*

1 **SEC. 514. ENERGY POLICY ACT OF 1992.**

2       Section 1340 of the Energy Policy Act of 1992 (42  
3 U.S.C. 13369) is amended by striking “Interstate Com-  
4 merce Commission” in subsections (a) and (d) and insert-  
5 ing “Intermodal Surface Transportation Board”.

6 **SEC. 515. RAILWAY LABOR ACT.**

7       Section 151 of the Railway Labor Act (45 U.S.C. 151)  
8 is amended by—

9           (1) striking “any express company, sleeping-car  
10 company, carrier by railroad, subject to” in the first  
11 paragraph and inserting “any railroad subject to”;

12           (2) striking “Interstate Commerce Commission”  
13 in the first and fifth paragraphs and inserting  
14 “Intermodal Surface Transportation Board”; and

15           (3) striking “Commission”, wherever it appears  
16 in the fifth paragraph and inserting “Intermodal  
17 Surface Transportation Board”.

18 **SEC. 516. RAILROAD RETIREMENT ACT OF 1974.**

19       Section 1 of the Railroad Retirement Act of 1974 (45  
20 U.S.C. 231) is amended by—

21           (1) striking subsection (a)(1)(i) and inserting:

22           “(i) any carrier by railroad subject to chapter  
23 105 of title 49, United States Code;”;

24           (2) striking “Interstate Commerce Commission”  
25 in subsection (a)(2)(ii) and inserting “Intermodal  
26 Surface Transportation Board”;

1           (3) striking “Board,” in subsection (a)(2)(ii)  
2           and inserting “Railroad Retirement Board,”; and

3           (4) inserting “Intermodal Surface Transpor-  
4           tation Board,” after Interstate Commerce Commis-  
5           sion,” in the first sentence of subsection (o).

6   **SEC. 517. RAILROAD UNEMPLOYMENT INSURANCE ACT.**

7           (a) Section 1 of the Railroad Unemployment Insur-  
8           ance Act (45 U.S.C. 351) is amended by—

9           (1) striking “Interstate Commerce Commission”  
10          in the second sentence of paragraph (a) and inserting  
11          “Intermodal Surface Transportation Board”;

12          (2) striking “Board,” in the second sentence of  
13          paragraph (a) and inserting “Railroad Retirement  
14          Board,”; and

15          (3) striking paragraph (b) and inserting the fol-  
16          lowing:

17          “(b) The term ‘carrier’ means a carrier by railroad  
18          subject to chapter 105 of title 49, United States Code.”.

19          (b) Section 2(h)(3) of the Railroad Unemployment In-  
20          surance Act (45 U.S.C. 352(h)(3)) is amended by—

21          (1) striking “Interstate Commerce Commission”  
22          and inserting “Intermodal Surface Transportation  
23          Board”; and

24          (2) striking “Board,” and inserting “Railroad  
25          Retirement Board,”.

1 **SEC. 518. EMERGENCY RAIL SERVICES ACT OF 1970.**

2       Section 3 of the Emergency Rail Services Act of 1970  
3 (45 U.S.C. 662) is amended by striking “Commission”,  
4 wherever it appears in subsections (a) and (b), and insert-  
5 ing “Intermodal Surface Transportation Board”.

6 **SEC. 519. REGIONAL RAIL REORGANIZATION ACT OF 1973.**

7       Section 304 of the Regional Rail Reorganization Act  
8 of 1973 (45 U.S.C. 744) is amended by—

9           (1) striking “Commission” in subsection  
10 (d)(1)(A) and inserting “Intermodal Surface Trans-  
11 portation Board”; and

12           (2) striking “Commission” wherever else it ap-  
13 pears in paragraph (1) or (3) of subsection (d), and  
14 in subsections (f) and (g), and inserting “Transpor-  
15 tation Board”.

16 **SEC. 520. RAILROAD REVITALIZATION AND REGULATORY**  
17 **REFORM ACT OF 1976.**

18       Section 510 of the Railroad Revitalization and Regu-  
19 latory Reform Act of 1976 (45 U.S.C. 830) is amended by  
20 striking “section 20a of the Interstate Commerce Act (49  
21 U.S.C. 20a)” and inserting “section 11301 of title 49,  
22 United States Code”.

23 **SEC. 521. ALASKA RAILROAD TRANSFER ACT OF 1982.**

24       Section 608 of the Alaska Railroad Transfer Act of  
25 1982 (45 U.S.C. 1207) is amended by striking “Interstate  
26 Commerce Commission” wherever it appears in subsections

1 (a) and (c) and inserting “Intermodal Surface Transpor-  
 2 tation Board”.

3 **SEC. 522. MERCHANT MARINE ACT, 1920.**

4 (a) Section 8 of Merchant Marine Act, 1920 (46 U.S.C.  
 5 App. 867) is amended by—

6 (1) striking “Interstate Commerce Commission”  
 7 in both places that it appears and inserting “Inter-  
 8 modal Surface Transportation Board”; and

9 (2) striking “commission” and inserting  
 10 “board”.

11 (b) Section 28 of the Merchant Marine Act, 1920 (46  
 12 U.S.C. App. 884) is amended by—

13 (1) striking “Interstate Commerce Commission”  
 14 where it first appears and inserting “Intermodal Sur-  
 15 face Transportation Board”; and

16 (2) striking “Interstate Commerce Commission”  
 17 wherever else it appears and inserting “Transpor-  
 18 tation Board”.

19 **SEC. 523. SERVICE CONTRACT ACT OF 1965.**

20 Section 356(3) of the Service Contract Act of 1965 (41  
 21 U.S.C. 356(3)), is amended by striking “where published  
 22 tariff rates are in effect”.

1 **SEC. 524. FEDERAL AVIATION ADMINISTRATION AUTHOR-**  
 2 **IZATION ACT OF 1994.**

3 *Section 601(d) of the Federal Aviation Administration*  
 4 *Authorization Act of 1994 (Pub. L. 103–305) is amended*  
 5 *by striking all after “subsection (c)” and inserting “shall*  
 6 *not take effect as long as section 11501(g)(2) of title 49,*  
 7 *United States Code, applies to that State.”.*

8 **TITLE VI—AUTHORIZATION**

9 **SEC. 601. AUTHORIZATION OF APPROPRIATIONS.**

10 *For the purpose of carrying out the provisions of this*  
 11 *Act, there are authorized to be appropriated—*

12 *(1) for the closedown of the Interstate Commerce*  
 13 *Commission and severance costs for Interstate Com-*  
 14 *merce Commission personnel, regardless of whether*  
 15 *those severance costs are incurred by the Commission*  
 16 *or by the Intermodal Surface Transportation Board,*  
 17 *the balance of the \$13,379,000 appropriated to the*  
 18 *Commission for fiscal year 1996, together with any*  
 19 *unobligated balances from user fees collected by the*  
 20 *Commission during fiscal year 1996;*

21 *(2) for the operations of the Intermodal Surface*  
 22 *Transportation Board for fiscal year 1996,*  
 23 *\$8,421,000, and any fees collected by the Transpor-*  
 24 *tation Board pursuant to section 9701 of title 31,*  
 25 *United States Code, shall be made available to the*  
 26 *Transportation Board; and*

1           (3) *for the operations associated with functions*  
 2           *transferred from the Interstate Commerce Commission*  
 3           *to the Intermodal Surface Transportation Board*  
 4           *under this Act, \$12,000,000 for each of the fiscal*  
 5           *years 1997 and 1998, and any fees collected by the*  
 6           *Transportation Board pursuant to section 9701 of*  
 7           *title 31, United States Code, shall be made available*  
 8           *to the Transportation Board.*

9           ***TITLE VII—EFFECTIVE DATE***

10       ***SEC. 701. EFFECTIVE DATE.***

11       *Except as otherwise expressly provided, this Act and*  
 12       *the amendments made by this Act shall take effect on Janu-*  
 13       *ary 1, 1996.*

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